100th Congress
2d Session

COMMITTEE PRINT

WMCP:
100-28

SUBCOMMITTEE ON TRADE

OF THE

# COMMITTEE ON WAYS AND MEANS
# U.S. HOUSE OF REPRESENTATIVES

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# WRITTEN COMMENTS

ON

# CERTAIN TARIFF AND TRADE BILLS

## VOLUME III

FEBRUARY 5, 1988

Printed for the use of the Committee on Ways and Means by its staff

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U.S. GOVERNMENT PRINTING OFFICE
81-911 WASHINGTON : 1988

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FOR IMMEDIATE RELEASE
WEDNESDAY, MAY 20, 1987

SUBCOMMITTEE ON TRADE #7
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# THE HONORABLE SAM M. GIBBONS (D., FLA.), CHAIRMAN, SUBCOMMITTEE ON TRADE, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, ANNOUNCES REQUEST FOR WRITTEN COMMENTS ON CERTAIN TARIFF AND TRADE BILLS

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The Honorable Sam M. Gibbons (D., Fla.), Chairman of the Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, today announced that the Subcommittee on Trade is requesting written testimony for the record from all interested parties on the miscellaneous tariff and trade bills listed below.

A determination regarding further scheduling of public hearings or other Subcommittee action on any of these bills will not be made until after the close of this public comment period.

The tariff and trade bills on which written testimony will be received are:

## Duty Reduction Bill

H.R. 1781 (Mr. Alexander): To reduce the rate of duty on allyl chloride.

## Duty Suspension Bills

H.R. 1109 (Mr. Roe): Relating to the duties on jacquard cards and jacquard heads.

H.R. 1594 (Mr. Frenzel): To extend the existing suspension of duty on flecainide acetate to January 1, 1992.

H.R. 1625 (Mr. McMillan of North Carolina): Relating to the tariff treatment of trifluromethylaniline (also known as m-Aminobenzotrifluride).

H.R. 1648 (Mr. Guarini): To provide for the temporary suspension of duty on tamoxifen citrate for a 3-year period.

H.R. 1686 (Mr. Duncan): To amend the Appendix to the Tariff Schedules of the United States to suspend the duty on bicycle tires and tubes.

H.R. 1767 (Mr. Jacobs): To suspend temporarily the duty on a certain chemical intermediate.

H.R. 1768 (Mr. Jacobs): To extend the existing suspension of duty on a certain chemical intermediate.

H.R. 1822 (Mr. Torricelli): To suspend until December 31, 1991, the duty on transparent acrylic decorative articles containing a cavity formed in one wall.

H.R. 1981 (Mr. Matsui): To amend the Trade Act of 1974, and for other purposes. (Relating to magnetic video tapes.)

H.R. 1991 (Mr. Dreier of California): To suspend temporarily the duty on certain unstuffed dolls.

H.R. 2033 (Mr. Archer): To extend the existing suspension of duty on certain diamond tool blanks.

H.R. 2080 (Mr. Solomon): To suspend for 3 years the duty on Rosachloride Lumps.

H.R. 2208 (Mr. Jenkins): To provide temporary duty-free treatment to 2,6-HNA.

H.R. 2236 (Mr. Gejdenson): To extend for 3 years the suspension of duty on uncompounded allyl resins.

H.R. 2255 (Mr. Schulze): To provide for the temporary suspension of the duty on m-Hydroxybenzoic acid.

H.R. 2256 (Mr. Schulze): To provide for the temporary suspension of the duty on 2-n-octyl-4-isothiazolin-3-one, and on mixtures of 2-n-octyl-4-isothi n-3-one and application adjuvants.

H.R. 2257 (Mr. Schulze): To provide for the temporary suspension of the duty on mixtures of 5-chloro-2-methyl-4-isothiazolin-3-one, 2-methyl-4-isothi n-3-one, magnesium chloride, stabilizers and application adjuvants.

H.R. 2258 (Mr. Schulze): To extend for 3 years the existing temporary suspension of the duty on mixtures of 5-chloro-2-methyl-4-isothiazolin-3-one, 2-methyl-4-isothiazolin-3-one, magnesium chloride and magnesium nitrate.

H.R. 2274 (Mr. Vander Jagt): To suspend for 3 years the duty on B-naphthol.

H.R. 2280 (Mr. Vander Jagt): To suspend for 3 years the duty on C-Amines.

H.R. 2281 (Mr. McGrath): To suspend the duty on kitchenware of transparent, nonglazed glass ceramics.

H.R. 2289 (Mr. Vander Jagt): To suspend for 3 years the duty on diamino imid sp.

H.R. 2297 (Mr. Coble): To extend the existing suspension of duty on m-Toluic acid.

H.R. 2313 (Mr. Gradison): To suspend until December 31, 1990, the duty on Teicoplanin.

H.R. 2314 (Mr. Gradison): To suspend until December 31, 1990, the duty on Ornithine.

H.R. 2331 (Mr. Walgren): To suspend until January 1, 1990, the duty on certain carbodiimides.

H.R. 2339 (Mr. Crane): To extend duty-free treatment to 4-chloro-3-methylphenol (CAS No. 59-50-7).

H.R. 2362 (Mr. Carper): To extend the temporary duty suspension on O-Benzyl-p-chlorophenol.

H.R. 2380 (Mr. Guarini and Mr. Ritter): To extend the existing suspension of duty on graphite.

H.R. 2385 (Mr. Pease): To extend until January 1, 1991, the existing suspension of duty on diphenyl quanidine and di-o-tolyl quanidine.

H.R. 2386 (Mr. Pease): To extend until January 1, 1991, the existing suspension of duty on certain power-driven flat knitting machines and parts thereof.

H.R. 2387 (Mr. Roe): To extend for 3 years the suspension of duty on di-o-tolyl guanidine.

H.R. 2388 (Mr. Roe): To extend for 3 years the suspension of duty on m-Aminophenol.

H.R. 2389 (Mr. Schuette and Mr. Vander Jagt): To continue for a 3-year period the suspension of the duties on dicyclomine hydrochloride, mepenzolate bromide, desipramine hydrochloride, rifampin, terfenadine, clomiphene citrate, and lactulose.

H.R. 2390 (Mr. Torricelli): To suspend temporarily the duty on certain chemicals.

H.R. 2411 (Mr. Miller of Ohio): To continue until January 1, 1991, the existing suspension of duty on m-Aminophenol.

H.R. 2412 (Mr. Miller of Ohio): To continue until January 1, 1991, the existing suspension of duty on Trichloro salicrylic acid.

H.R. 2413 (Mr. Nagle): Extending the existing suspensions of duty on certain chemicals until January 1, 1991.

H.R. 2414 (Ms. Oakar): To extend for three years the existing suspension of duty on natural graphite.

H.R. 2418 (Mr. Rowland of Connecticut): To continue until January 1, 1991, the existing suspension of duties on 4,4'Bis(a,a-dimethylbenzyl) diphenylamine.

H.R. 2420 (Mr. Schulze): To provide for the temporary suspension of the duty on triethyleneglycol dichloride.

H.R. 2421 (Mr. Sundquist): To extend for 3 additional years the existing suspension of duty on certain forms of amiodarone.

H.R. 2424 (Mr. Walgren): To extend the temporary duty suspension on O-Benzyl-p-chlorophenol.

H.R. 2431 (Mr. Guarini): To extend for 3 years the reduction of duty on caffeine.

H.R. 2432 (Mrs. Lloyd): To extend until January 1, 1991, the existing suspension of duty on sulfathiazole, sulfamethazine, and sodium sulfamethazine.

H.R. 2436 (Mr. Weldon): To extend for 3 years the suspension of duty on hovercraft skirts.

Duty Increase Bills

H.R. 2124 (Mr. Flippo): To impose a temporary duty on laser discs.

H.R. 2419 (Mr. Russo): To correct the tariff rate inversion on alloy iron and steel pipes and tubes.

Classification Bills

H.R. 2154 (Mr. Rinaldo, et al.): To amend the Tariff Schedules of the United States to provide for the specific listing of certain benzenoid chemicals with other specifically listed chemicals.

H.R. 2409 (Mr. Matsui): Relating to the tariff classification of certain leather belts.

H.R. 2425 (Mr. Whitten, Mr. Anthony, Mr. Frenzel, Mr. Schulze, et al): To amend the Tariff Schedules of the United States to make the temporary changes in tariff treatment on certain disposable surgical gowns and drapes permanent.

Prohibition Bill

H.R. 2043 (Mr. Craig): To prohibit the importation of certain products of Australia and New Zealand.

Customs and Other Nontariff Matters Bills

H.R. 1893 (Mr. Horton, et al.): To amend the Tariff Act of 1930 regarding country-of-origin marking requirements for imported fresh fruits and vegetables.

H.R. 2034 (Mr. Archer and Mr. Andrews): To amend section 507 of the Tariff Act of 1930 to provide an allowance for detectable moisture and impurities in determining tare on imports of crude oil and petroleum products.

H.R. 2336 (Mr. Akaka and Mr. Frenzel): To amend the Tariff Act of 1930 regarding the customs administration of duty-free sales enterprises.

H.R. 2338 (Mr. Bonker): To prohibit the imposition of excessive customs fees for foreign trade zone services, and for other purposes.

H.R. 2422 (Mr. Thomas of California): For the relief of Fabrimetrics, Incorporated.

H.R. 2430 (Mr. Gradison, Mr. Andrews, Mr. Chandler, Mr. Crane, Mr. Dorgan of North Dakota, Mr. Gregg, Mr. Stark, and Mr. Vander Jagt): To provide an administrative procedure for certain noncontroversial suspensions of tariffs.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Persons submitting written comments should submit six (6) copies by the close of business, Friday, June 12, 1987, to Robert J. Leonard, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Room 1102 Longworth House Office Building, Washington, D.C. 20515.

SEE ENCLOSED FORMATTING REQUIREMENTS.

* * * * * * * * * * *

## H.R. 1109

*Relating to the duties on jacquard cards and jacquard heads*

STATEMENT OF THE AMERICAN TIE FABRIC ASSOCIATION

These comments on H.R. 1109 are submitted on behalf of the American Tie Fabric Association (ATFA), a trade association representing domestic manufacturers of fabric used in the production of neckwear.

H.R. 1109 would suspend the duties currently imposed on jacquard heads and jacquard cards, 4.7% and 7% respectively, until December 31, 1989. S. 601, the companion Senate bill, will be included in the Senate Finance Committee's version of the omnibus trade bill, S. 490, which is expected to be reported on June 12, 1987.

In order to weave the complex-patterned materials they need, producers of tie fabric must generally use jacquard looms. These looms are controlled by jacquard heads. Futhermore, the weaving instructions to the heads are communicated through the use of jacquard cards. Jacquard heads and cards are the subjects of this bill. Neither jacquard heads nor jacquard cards are manufactured in the United States.

Current duties on jacquard heads and cards serve only to increase the manufacturing costs borne by domestic weavers who are now fighting to reduce those costs to allow their complex-patterned fabrics to compete with increasing quantities of low-priced textile imports which already account for a substantial share of the U.S. market.

Section 864 of H.R. 3, which passed the House of Representatives on the 30th of April, provides for the suspension of duties on jacquard cards until December 31, 1990. This section appears to be based on legislation which was introduced in the House of Representatives last year. More specifically, H.R. 5199, introduced in July, 1986, would have suspended the duties imposed on jacquard heads and looms. H.R. 5198, introduced at the same time, would have granted a duty suspension on imports of jacquard cards.

One domestic loom manufacturer expressed objections to duty suspensions on looms. Presumably because of those objections, H.R. 3 incorporated the substance of H.R. 5198 (suspension of duties imposed on jacquard cards) but not of H.R. 5199 (suspension of duties imposed on jacquard heads and looms). No opposition was expressed with respect to the proposed duty suspensions on jacquard cards or heads. However, presumably in an effort to avoid suspending the duties imposed on looms, the House failed to propose relief for jacquard heads, which are not manufactured in the United States.

S. 601 and H.R. 1109, however, grant tariff suspensions on both jacquard heads and cards until December 31, 1989. Enactment of S. 601 as a part of S. 490 would grant domestic producers the same relief as would enactment of H.R. 1109. We would request that the House accept the Senate version of H.R. 1109 when a conference is held to reconcile S. 490 and H.R. 3. This would facilitate and expedite the relief needed by domestic producers.

The substance of H.R. 1109, as incorporated in the Finance Committee's version of the trade bill, would help domestic textile manufacturers by reducing their costs of equipment, without affecting any other manufacturer in the United States. Similar duty suspension provisions are already in effect for other weaving machines and accessories, and several more bills are pending before Congress. Thus, there is clear precedent, as well as strong support, for the enactment of this legislation.

## H.R. 1594

*To extend the existing suspension of duty on flecainide acetate to January 1, 1992*

No statements submitted.

---

## H.R. 1625

*Relating to the tariff treatment of trifluoromethylaniline (also known as m-Aminobenzotrifluride)*

---

**Sandoz Crop Protection Corporation**
341 East Ohio Street
Chicago, Illinois 60611
312.670 4500

Staff Director
Subcommittee On Trade #4
Committee On Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Re: Written comments in response to request for written comments on H. R. 1625.

Background

Sandoz Crop Protection Corporation (SCPC) imports Trifluromethylaniline (TFMA), otherwise known as M-Aminobenzotrifluride, to manufacture Norflurazon. SCPC uses Norflurazon to formulate a pre-emergence herbicide sold under the trade name Zorial Rapid 80. SCPC imports in excess of 1,000,000 LB annually of TFMA.

Purpose of Legislation

This legislation would temporarily suspend the duty on this imported material. As the current duty is 1.1 cents per pound, plus 18.8 percent ad valorem, this legislation would produce a significant cost reduction for this raw material. A substantial portion of this cost reduction would pass through to the finished product because TFMA is a significant cost component to Zorial Rapid 80.

Import of TFMA Mandatory

SCPC, through efforts of its corporate purchasing department, is unable to identify a producer of TFMA in the United States. Previously known producers ceased production between 1972 and 1984. In addition, there are no substitute chemicals that can be used in this manufacturing process.

No Adverse Domestic Reaction

TFMA is currently classified in TSUS under a "basket" provision that does not specifically reference it by name. This "basket" provision was originally intended to protect U.S. manufacturers of coal tar dyes. Maintaining the applicability of this "basket" provision for TFMA serves little purpose at a time when this chemical is not produced in the United States. Since TFMA is not produced in the United States there could be no adverse domestic reaction to this legislation.

Respectfully,

David L. Hoerchler
Corporate Transportation Manager

H.R. 1648

*To provide for the temporary suspension of duty on tamoxifen citrate for a 3-year period*

No statements submitted.

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H.R. 1686

*To amend the Appendix to the Tariff Schedules of the United States to suspend the duty on bicycle tires and tubes*

No statements submitted.

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H.R. 1767

*To suspend temporarily the duty on a certain chemical intermediate*

No statements submitted.

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H.R. 1768

*To extend the existing suspension of duty on a certain chemical intermediate*

No statements submitted.

---

H.R. 1781

*To reduce the rate of duty on allyl chloride*

No statements submitted.

**H.R. 1822**

*To suspend until December 31, 1991, the duty on transparent acrylic decorative articles containing a cavity formed in one wall*

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New York - June 11, 1987

Robert J. Leonard, Esq.
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
Room 1102
Longworth House Office Buidling
Washington, D.C. 20515

Re: HR 1822 - To Suspend Duty on Transparent Acrylic Decorative Articles Containing A Cavity Formed in One Wall

Dear Mr. Leonard:

Pursuant to the request for public comment, on behalf of Russ Berrie & Company, Inc. of Oakland, New Jersey, we submit our comments urging the Subcommittee on Trade to act favorably on the above bill.

HR 1822 is a bill to suspend duty on transparent acrylic decorative articles containing a cavity formed in one wall.

Russ Berrie & Co., Inc. is a publicly held company whose stock is traded on the New York Stock Exchange. It was founded by Mr. Russ Berrie as a one man company a little more than twenty years ago. Today the company employs more than 1,800 people in the United States and has sales of $230,000,000. It is projected that the company will employ 3,000 people by 1990.

It is anticipated that a reduction in duty will enable sales to increase and as a result, Russ Berrie can increase employment.

We enclose herewith a copy of "The Russ Story" which explains the Russ Berrie philosophy and describes the phenominal growth of the Russ Berrie Company.

Our client imports many miscellaneous plastic articles that are classifiable under 774.5585 dutiable at 5.3% or under household articles of plastic or rubber under 772.15 at 3.4%.

One of the items is a patented acrylic polymer product (Sculptured Optical Art Form) which Russ Berrie calls "Etched Images". All of the designs for the Etched Images are made by Reflecting Art of Pompano Beach, a division of Russ Berrie & Company, Inc. Each design is manually formed by the artists using conventional techniques, such as carving, grinding, sanding or even molding. It is carved on the reverse side of a clear acrylic surface so that the design appears on the opposite side with depth and dimension. Enclosed for your reference is a copy of the patent for this article which explains the process for the production of the design. Also enclosed for your examination are several samples of the "Etched Images."

The article is a decorative item and is found in the home and office.

Since this item is patented and can only be made by Russ Berrie & Company, Inc., there is no domestic production of this item. However, there may be some production of similar items in the United States.

On behalf of our client, we strongly urge your support for the suspension of duty for TSUS items 772.15 and 774.5585.

We respectfully request an opportunity to discuss this matter with you further at your earliest convenience.

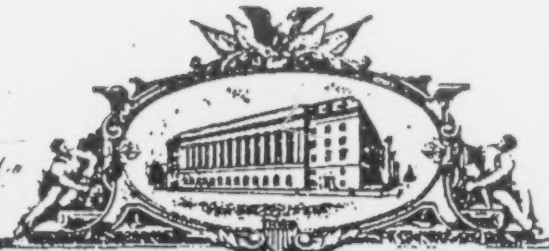
Thank you for your consideration of our request.

Sincerely,

SERKO, SIMON & ABBEY

Joel K. Simon

JKS/ms
Enclosure



4277139

# THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Whereas, THERE HAS BEEN PRESENTED TO THE

Commissioner of Patents and Trademarks

A PETITION PRAYING FOR THE GRANT OF LETTERS PATENT FOR AN ALLEGED NEW AND USEFUL INVENTION THE TITLE AND DESCRIPTION OF WHICH ARE CONTAINED IN THE SPECIFICATION OF WHICH A COPY IS HEREUNTO ANNEXED AND MADE A PART HEREOF, AND THE VARIOUS REQUIREMENTS OF LAW IN SUCH CASES MADE AND PROVIDED HAVE BEEN COMPLIED WITH, AND THE TITLE THERETO IS, FROM THE RECORDS OF THE PATENT AND TRADEMARK OFFICE IN THE CLAIMANT(S) INDICATED IN THE SAID COPY, AND WHEREAS, UPON DUE EXAMINATION MADE, THE SAID CLAIMANT(S) IS (ARE) ADJUDGED TO BE ENTITLED TO A PATENT UNDER THE LAW.

NOW, THEREFORE, THESE Letters Patent ARE TO GRANT UNTO THE SAID CLAIMANT(S) AND THE SUCCESSORS, HEIRS OR ASSIGNS OF THE SAID CLAIMANT(S) FOR THE TERM OF SEVENTEEN YEARS FROM THE DATE OF THIS GRANT, SUBJECT TO THE PAYMENT OF ISSUE FEES AS PROVIDED BY LAW, THE RIGHT TO EXCLUDE [OTH]ERS FROM MAKING, USING OR SELLING THE SAID INVENTION THROUGHOUT THE [UNI]TED STATES.

In testimony whereof I have hereunto set my hand and caused the seal of the Patent and Trademark Office to be affixed at the City of Washington and of the Independence of the United States of America the two hundred and sixth.

Attest: Priscilla A. Keller
Attesting Officer

Donald J. Quigg
Acting Commissioner of Patents and Trademarks

**United States Patent** [19]

**Cox**

[11] **4,277,139**

[45] **Jul. 7, 1981**

[54] **SCULPTURED OPTICAL ART FORM**

[76] Inventor: **Michael Cox, 1311 Dixie Hwy. S., Pompano Beach, Fla. 33060**

[21] Appl. No.: **899,384**

[22] Filed: **Dec. 12, 1977**

[51] Int. Cl.³ ..... G02B 27/24; G02B 5/04

[52] U.S. Cl. ..... 350/286; 272/8 M; D11/133; 350/297

[58] Field of Search ..... 350/286, 321, 144, 297; 40/10 D; 65/107; D16/48, 51; D11/133; 272/8 M, 13; 264/1

[56] **References Cited**

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|---|---|---|---|
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| 170,343 | 11/1875 | Dressler | 40/10 D |
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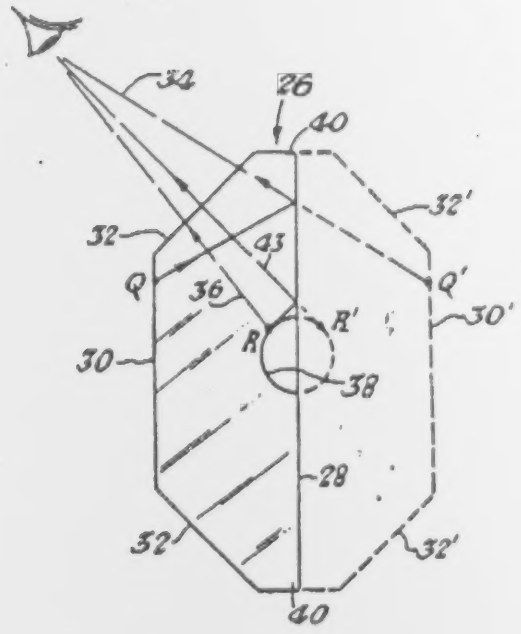
*Primary Examiner*—Jon W. Henry
*Attorney, Agent, or Firm*—Barry L. Haley

[57] **ABSTRACT**

A sculptured optical art form device and the method of making comprising a transparent block having a predetermined index of refraction to provide internal light reflection, said block having a cavity disposed in one wall, the cavity being shaped or carved as a symmetrical one-half of an object that is optically displayed as a whole object in the block. The transparent block may be constructed of an acrylic polymer or glass. The geometrical outside shape of the block is selected to provide an optical view through at least one wall to an observer such that light rays striking the wall having the cavity are internally reflected. The observer looking through the viewing wall will observe a complete, fully formed object optically created by the symmetrical one-half cavity formed in the block wall providing internal optical reflectance. In one embodiment, the object optically created by the cavity appears to be completely embedded in the center of the block.

7 Claims, 4 Drawing Figures



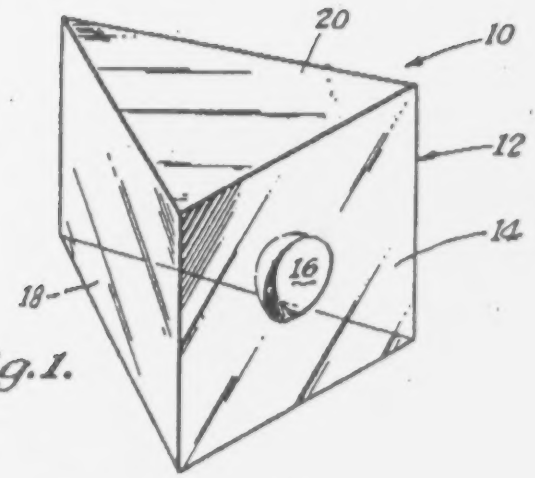



Fig. 1.

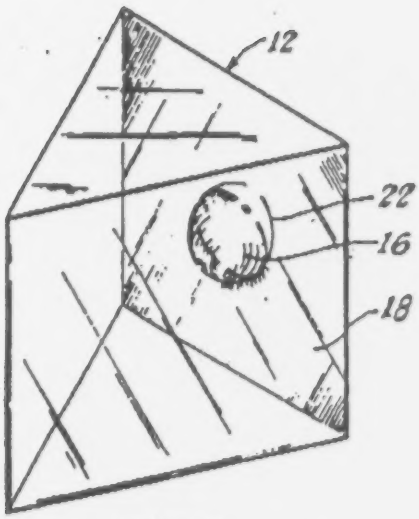



Fig. 2.

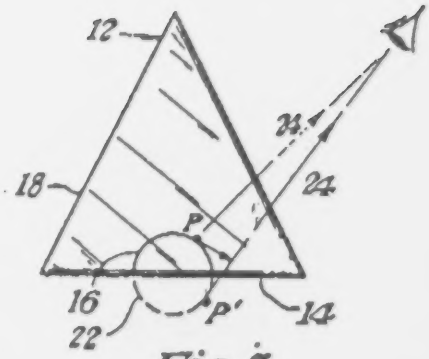



Fig. 3.

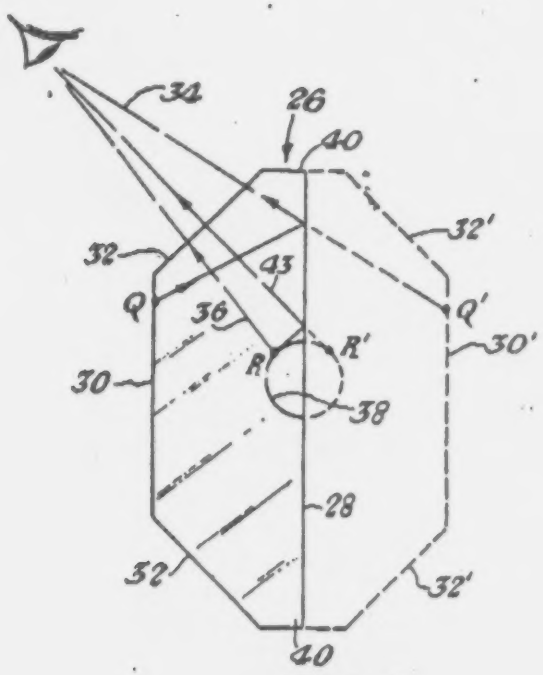



Fig.4.

# SCULPTURED OPTICAL ART FORM

## BACKGROUND OF THE INVENTION

This invention relates generally to a novel art form in which a sculptured object appears optically to be embedded in a transparent block, and specifically to a sculptured art form including a transparent block of material having an index of refraction such as to produce internal reflection at one wall of the block, the internal reflecting wall having a cavity formed therein representative of one-half of an object to be viewed.

In present day techniques involving certain art forms, it is known to embed an object to be viewed in a transparent medium. Acrylic polymers and glass as art forms have been used for completely embedding such a three-dimensional object within the transparent material. This art form involves taking a fully formed object and submerging and suspending the object within the molten transparent material until the material has hardened.

The present invention utilizes a transparent block having a sculptured cavity in one wall and internal light ray reflectance that optically projects the image of the sculptured cavity such that the cavity appears to be a fully formed three-dimensional object embedded in the block.

When a light ray traverse from a more dense medium to a less dense medium, the light ray is said to be refracted at the interface or wall between the two media. The angle between the normal to the wall surface that the light ray strikes and the wall surface is called the angle of incidence while the angle of the light ray emerging from the more dense medium relative to a normal to the wall surface is called the angle of refraction. Under Snell's law, the ratio of the sin of the angle of incidence to the sin of the angle of refraction is a constant. When a light ray traverses from a more dense medium to one of less density, as the angle of incidence becomes greater, so does the angle of refraction. Increasing the angle of incidence results in reaching a particular angle where the refracted ray becomes tangent to the wall interface between the two media. This is called the critical angle. Increasing the angle of incidence above the critical angle will result in total internal light reflection within the more dense medium. It has been determined that transparent acrylic polymers, known under the trademarks PLEXIGLASS or LUCITE, have indicies of refraction of 1.491, very close to that of some glass. This produces a critical angle of around 43 degrees for the acrylic polymer.

The image of a point source light formed by a plane mirror lies on the normal to the mirror surface and is as far back behind the mirror optically as the point source is in front of the mirror. As image formed by light rays which do not actually originate from the viewed object but appear to do so, are called virtual images. In most cases, an object forms an image as a three-dimensional object when viewed in a plane mirror. Since for every point source of light on an object there corresponds a similar point source in its image when mirrored, the image appears three-dimensional also. In the present invention, a cavity formed on the interface wall of a transparent block that exhibits internal reflectance acts as the source of both a real and a virtual image. Optically, the cavity is viewed as a complete three-dimensional object if the cavity is formed as a symmetrical one-half of the object viewed. Moreover, the adjacent block walls may be angularly disposed relative to each other to provide multiple internal reflection such that when viewed through certain walls, the object formed by the cavity appears to be fully embedded inside the block.



In accordance with the instant invention, transparent blocks of an acrylic polymer are selected such that an observer can readily perceive one wall of the block as having internal light reflection. The symmetrical one-half of an object cavity is sculptured in one wall that is observed to have internal reflection.

## BRIEF SUMMARY OF THE INVENTION

A device for providing an optical display using an acrylic polymer transparent block shaped to provide internal light ray reflection that is visually observable on a predetermined wall, said mirrored wall having a cavity formed therein shaped as a symmetrical one-half of an object to be displayed. The resultant visual display provides an observer with a complete, perfectly symmetrical object when viewing the mirrored wall through particular other walls of the transparent block at angles suitable for visually observing internal reflectance.

The cavity formed in the mirrored wall is manually formed using conventional techniques by the artists such as carving, grinding, sanding or even molding. The geometrical solid block selected may be shaped in the form of a prism, a pyramid, a parallelopiped or the like such that one wall will provide internal reflection when viewed through any one of the other remaining walls.

The method of producing the device includes the steps of 1) selecting a transparent solid block consisting of a material such as an acrylic polymer or glass shaped so that an observer can visually experience one wall having internal reflection and 2) forming a cavity in the observable internally reflectable wall surface, said cavity being preferrably shaped as a symmetrical one-half of the object to be completely optically displayed. In another embodiment, the block walls include parallel front and back surfaces and angled side walls such that certain light rays are internally reflected at the front and back walls, as viewed through either angled side wall. A cavity in the back wall formed as one-half an object (or other selected subject) will be optically projected into the center region of the block when viewed through either side wall due to multiple internal reflection interaction between the front and back walls.

It is an object of this invention to provide a novel art from that provides a fully formed optical image of an object three-dimensionally within a translucent material.

It is another object of this invention to provide an optical display device using an acrylic polymer block having a cavity formed in one wall in which a visual display is presented showing a fully formed object of the cavity formed therein, that appears to be fully embedded in the block.

Yet still another object is to provide a method and device formed therefrom of an art form using transparent material presenting three-dimensional objects disposed therein.

In accordance with these and other objects which will be apparent hereinafter, the instant invention will now be described with particular reference to the accompanying drawing.

## BRIEF DESCRIPTION OF THE DRAWINGS

FIG. 1 is a perspective view of an art object constructed in accordance with the instant invention.

FIG. 2 shows a perspective view from a different angle of the device shown in FIG. 1 of the instant invention.

FIG. 3 shows a top plan view of the device shown in FIG. 1.

FIG. 4 is a perspective view of a device constructed in accordance with an alternate embodiment of the instant invention.

## PREFERRED EMBODIMENT OF THE INVENTION

Referring now to the drawings, and specifically to FIGS. 1 and 3, one embodiment of the instant invention is shown generally at 10 comprised of a transparent solid block 12 which is in the form of a prism having a hemispherical cavity 16 formed in one wall 14 of the prism. The block 12 consists of a transparent acrylic polymer having an index of refraction of 1.491. The top and bottom prism walls 20 are parallel while the side walls are joined to form a triangular cross sectional shape. In such a prism, at the block-air interface wall 14, internal light rays striking wall 14 internally at an angle of approximately 45 degrees or more (relative to the normal) will be internally reflected.

FIG. 3 shows a light ray point source P on the cavity wall 16 which acts as a point source of light for light ray 24' which is internally reflected at the interface of wall 14 creating virtual image P'. The hemispherically shaped cavity 16 is observed as a complete sphere due to internal reflectance on wall 14 and the creation of a virtual image 22.

Referring now to FIG. 2, a visual sphere is presented comprised of point sources of light emanating from the cavity wall 16 and the virtual image 22 presented by internal reflectance in the back wall 14.

FIG. 4 shows an alternate embodiment of the invention in which a block is utilized having a back wall 28 with a hemispherical cavity 38 formed therein and a front wall 30 which is substantially parallel to the back wall. A pair of angled side walls 32 are likewise included which are angled relative to the back and front walls at approximately a 45 degree angle. The effect of having front and back parallel walls with the angled side walls 32, is that the observer experiences internal reflection that is observable off both the back and front walls as follows. A point R on the hemisphere can be observed through the angled side walls 32 as a real image. Likewise, using light ray 42, a virtual image point R' is also observed because of the internal reflection along back wall 28. Further, a point source Q which is a point on the front wall 30 is observed as a virtual image Q' from light ray 34. Overall, the observer will be looking at both the reflected internal front wall face as it appears as a virtual image behind the hemispherical cavity which is being projected as a total sphere. This optical affect provides the observer with an object formed by the cavity in the back wall which appears to be totally embedded in the center of the block because of the virtual image formed by the front wall and its reflectance off the back wall. The photograph, shown as FIG. 5, shows this illusion using a bear which has been sculptured in the back wall and which, because of the internal reflectance as described in FIG. 4, projects a fully formed three-dimensional appearing bear (and mountain scenery) such that the observer optically experiences a complete bear embedded totally within the central portion of the block. The angled side walls presented in this embodiment function such that some of the observed rays emerging perpendicularly from either side wall are internally reflected at angles within the block if the side wall surface angle relative to the back or front wall is greater than the critical angle so that internal reflection is observable on both the back and the front walls. As the angle between the front or back wall and a side wall is altered from the 45 degree angle shown, limiting angles will be reached where the internal reflectance from the front wall is not provided such that the observed sculptured cavity will not appear to be embedded completely within the block but (due to internal reflectance at the back wall) will still appear as a fully formed object, not just the 6 symmetrical one-half. Although a hemispherical cavity is shown, in the drawings for illustration any other object may be a subject of the cavity, the cavity being formed as a symmetrical one-half of a completed object to be observed.

The instant invention has been shown and described herein in what is considered to be the most practical and preferred embodiment. It is recognized, however, that departures may be made therefrom within the scope of the invention and that obvious modifications will occur to a person skilled in the art.

What I claim is:

1. A method for optically producing a visual image of a three dimensionally complete object in a transparent medium comprising the steps of:

(a) selecting a transparent geometrical solid of a particular shape having at least one wall observable of internal light reflection; and

(b) forming a cavity in the wall having the observable internal reflection, said cavity being formed in the shape of a symmetrical one half of the three dimensional visual image displayed.

2. An art form as in claim 1, wherein step (a) includes: selecting a solid having substantially parallel front and back walls, and at least one side wall disposed at an angle to said back wall, said angle being between 25 degrees and 75 degrees.

3. A device for producing an optical display of a complete three dimensional object within a transparent geometrical solid comprising:

a transparent member having a wall portion that provides optically internal light reflectance, said wall portion having a cavity formed therein in the shape of the symmetrical one half of said optically observable three dimensional object.

4. A device as in claim 3, wherein:

said solid has an index of refraction between 1.3 and 1.7.

5. A device as in claim 3, wherein:

the geometrical solid is a prism.

6. A device as in claim 3, wherein:

said block includes substantially parallel front and back walls, and at least one sidewall disposed at an angle relative to said back wall to produce observable internal reflection of said front and back walls.

7. A device for creating an optical illusion of a fully three dimensional object embedded within a transparent block, comprising:

a transparent block having a first wall and a second wall, said block consisting of a material for providing substantially total internal optical reflectance at said first wall when viewed through said second wall, said first wall having a cavity disposed therein, said cavity shaped as the symmetrical one-half of an object visually observable as a complete three dimensional object through said second wall.

* * * * *

**H.R. 1893**

*To amend the Tariff Act of 1930 regarding country-of-origin marking requirements for imported fresh fruits and vegetables*

**American Farm Bureau Federation**

WASHINGTON OFFICE
600 MARYLAND AVE., S.W.
SUITE 800
WASHINGTON, D.C. 20024
AREA CODE 202 - 484-2222

June 22, 1987

COMMITTEE ON
JUN 22 1987

Mr. Robert J. Leonard
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Leonard:

The American Farm Bureau Federation appreciates the opportunity to comment on H.R. 1893, a bill to amend the Tariff Act of 1930 regarding country of origin marking requirements for imported fresh fruits and vegetables.

Farm Bureau strongly supports the labeling of imported food products at the retail level according to the country of origin. Our policy clearly states: "Imported products should be labeled at the distribution point and retail level as to the country of origin." This policy applies to imported meat products as well as to fruits and vegetables.

While all imports in principle are required to be labeled according to country of origin at the retail level, there are enough exceptions to the law that very few raw agricultural imports actually are, unless they enter the United States in a retail-ready state. Any additional processing or repackaging generally exempts food products from the labeling requirement. H.R. 1893, introduced by Congressman Horton, would correct this loophole in U.S. labeling laws.

The American Farm Bureau Federation has supported for a number of years legislative and regulatory changes to require more accurate country of origin labeling of imported agricultural products. We feel that consumers have a right to know from which countries their food products originated. This is especially important as consumers are becoming increasingly aware of quality and safety concerns with many imported foods. Therefore, Farm Bureau supports H.R. 1893 and urges its adoption.

We request that our comments be included in the record of public comments.

Sincerely,

John Datt

John C. Datt
Executive Director
Washington Office

**BASIC AMERICAN FOODS**
Basic Vegetable Products Division

May 26, 1987

COMMITTEE ON
RECEIVED
JUN 1 1987
WAYS AND MEANS

Robert K. Leonard
Chief Counsel
Ways and Means, Trade Subcommittee
U. S. House of Representatives
Washington, D.C. 20515

Dear Mr. Leonard:

This letter is in response to your Subcommittee's request for comments on the labeling of fresh fruits and vegetables by country of origin.

Basic Vegetable Products, Inc., doing business in California as an onion and garlic dehydrator, takes the position against labeling of fresh fruits and vegetables by country of origin.

While the goal of such a bill may be very desirable, the practicality of labeling all such fruits and vegetables would be very difficult to administer. Some fresh vegetables brought into the United States, and garlic is a good example, would be originally intended for the fresh market and, perhaps, a percentage of it would go to the fresh market, but the balance would end up going to dehydration plants. Therefore, it is somewhat ambiguous how this labeling would follow such a product.

We are in favor of consumer protection, but feel this labeling will not give the desired protection.

Thank you for the opportunity to comment on this proposed labeling bill.

Sincerely,

BASIC VEGETABLE PRODUCTS, INC.

Don E. Everingham
Senior Vice President Operations

DEE/mw
ADOGA:20

cc: R. L. Holland, Irene Castillo, Lillian Leikind

P.O. BOX 1071 • HANFORD, CA 93232 • 209/584-2711

California Farm Bureau Federation
1601 Exposition Boulevard
Sacramento, California 95815
Phone: (916) 924-4000

June 19, 1987

A FARM BUREAU SPEEDLINE MESSAGE FOR:

The Honorable Robert J. Leonard
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515

STATEMENT OF THE CALIFORNIA FARM BUREAU FEDERATION TO
THE HOUSE COMMITTEE ON WAYS AND MEANS
REGARDING H.R. 1893 -- COUNTRY-OF-ORIGIN LABELING

By Henry J. Voss, President
California Farm Bureau Federation

The California Farm Bureau Federation represents more than 100,000 member-families with interest in the production of agricultural commodities. We appreciate the opportunity to comment on the country-of-origin labeling requirements as proposed in H.R. 1893 (Mr. Horton, et al.).

Our membership has identified country-of-origin labeling as a top priority. It is Farm Bureau's position that imported agricultural products should be labeled as to country-of-origin throughout the marketing chain, especially at the retail level. The country-of-origin should be clearly stated in print large enough to be easily identified. Most manufactured goods and textiles are labeled at the retail level; yet, many agricultural products are exempt from this requirement because the retail outlet removes the commodity from its shipping container and sells the commodity in bulk. Since the country-of-origin is required to be on the shipping container, retail outlets could easily retain the identification through the point of consumer purchase. We feel it is just to extend origin information to food products.

We endorse the amendment of the Tariff Act of 1930 as the avenue for strengthening country-of-origin labeling mandates.

Thank you for the opportunity to express our support for H.R. 1893.

STATEMENT OF

THE FLORIDA FRUIT AND VEGETABLE ASSOCIATION

The Florida Fruit & Vegetable Association (FFVA or the Association) is a non-profit agricultural trade association of fresh fruit and vegetable growers and shippers. Our members grow and ship a substantial volume of all fresh fruits and vegetables grown in Florida. FFVA was organized in 1943 under the laws of the State of Florida to provide a means of dealing with public and private agencies to aid in the recognition and solution of industry problems. FFVA has a long history of international trade involvement and is active in many areas involving U.S. international trade matters.

The bill (H.R. 1893) being considered by the Committee involves an amendment of the Tariff Act of 1930. This bill would require the labelling of all imported fresh fruits and vegetables as to the country of origin.

At its annual convention last fall, the members of FFVA voted unanimously to support federal legislation which would require country of origin labelling. This bill will aid the consumer in determining which produce is foreign and which is domestic. Presently, there has been a tendency to mix foreign produce with domestic produce. This blend is then presented to the consumer as a domestic product. In other instances, foreign produce is not mixed but it is also not specifically identified as to its origin and, therefore, consumers are misled into believing the product is of domestic origin. In short, consumers are duped into believing that they are purchasing domestic produce when in fact this is not true or only half-true.

The proposed legislation would end the practice of mixing foreign and domestic produce.

FFVA believes that this concept of mandatory labelling of foreign produce is fair for several reasons. First, in Section 304 of the Tariff Act of 1930, 19 U.S.C. §1304, Congress made its intention clear that the ultimate purchaser has the right to know the country of origin of his or her purchase. In fact, it clearly states that "every article of foreign origin (or its container) shall be marked in a conspicuous place . . . in such a manner as to indicate to an ultimate purchaser in the United States the English name of the country of origin of the article." (emphasis added) The language of this Act does not exclude fresh fruits and vegetables. A legal analysis of this position is attached hereto.

Secondly, FFVA feels it is the right of every purchaser, ultimate or otherwise, to know what they are buying and where it is from. From a purely patriotic perspective, such labelling makes it possible for purchasers to "buy American". Today, purchasers do not have that choice. FFVA feels they should have this choice.

Thirdly, knowing where produce is from enables the public to make choices concerning their well-being. In many cases, imported produce has been treated with pesticides which are banned in the United States because they have been found to be harmful to humans. The consumer/purchaser should not be allowed to unwittingly play Russian roulette every time he or she goes to buy produce.

We have heard various criticisms of country of origin legislation that we feel are unfounded. For example, some have argued that such legislation would be too costly to enforce.

This is not true. We would like to use Florida as an example, because Florida has had a labelling law in effect since 1979. According to Dr. Martha Rhodes, Assistant Commissioner of Agriculture for the State of Florida, this new law has cost Florida only $15,500.00 per year.

Some have said hundreds of inspectors would have to be hired to enforce this law, and that such a labelling law would be unenforceable. In Florida, the number of inspectors has not increased over the past three fiscal years, and there have been 47,047 inspections made concerning the labelling law. These labelling law inspections have been made part of already mandatory inspections since the law was introduced. Based on these inspections, Florida's inspectors issued 1425 stop sale orders due to lack of country of origin labelling. These problems with lack of origin labelling usually are remedied immediately by placing hand written placards stating the country of origin on the bin. Dr. Rhodes has concluded the law has been cost effective, and enforceable.

Another concern of retailers and packers is the lack of effectiveness of such a law. Using the above statistics on total inspections and stop sale citations, Florida has had a 97 percent compliance rate over the last three years. FFVA feels this bill has been a great success in aiding the consumer, and has not been too costly or difficult to enforce. We feel that a labelling law at the national level would be equally as effective.

Another criticism we have heard is that the consumer does not want information concerning country of origin. Our belief, as Floridians, is that the people who live in Florida like the labelling, find the information helpful, and use it. And because Florida law also bans commingling of foreign and domestic produce, the consumer can make a choice between domestic produce, and foreign produce possibly tainted with banned pesticides. On these bases, we would say the public would clearly benefit from a national labelling law.

FFVA does not want every grape in a bunch or every item in a salad bar labelled. What FFVA does want is the reinforcement of Federal laws so that consumers of fresh fruits and vegetables can make a truly informed choice as to the produce they select for purchase.

When H.R. 1893 is passed, the Congressional intent of the Tariff Act of 1930 will have been achieved and will require the labelling or identification of foreign fruits and vegetables for the U.S. consumer.

STATEMENT OF THE FLORIDA TOMATO EXCHANGE

The Florida Tomato Exchange (FTE or Exchange) strongly supports the adoption of H.R. 1893, a bill to require the labelling of foreign fruits and vegetables.

The Florida Tomato Exchange is a non-profit cooperative agricultural association whose members represent more than 80 percent of the volume of fresh tomatoes shipped from Florida each year.

Since 1980, FTE has been urging the U.S. Customs Service ("Customs Service") to review its interpretation of Section 304 of the Tariff Act of 1930 with regard to country of origin labelling. The Exchange felt and feels that labelling of imported fresh fruits and vegetables as to country of origin is mandated under this section of the Tariff Act. An analysis of this position is attached.

In 1983, the Customs Service agreed with our position on labelling imported tomatoes or their containers, but not to the extent we had hoped. The Customs Service agreed that all repackaging of tomatoes should bear the English name of the country of origin, as provided for in the Act. However, it did not interpret the placing of tomatoes in display bins in retail chain stores as repackaging, and, therefore, did not require labelling of imported tomatoes in bins at retail. The Exchange does not believe this result comports with either the letter or the spirit of the law.

FTE continued pursuing a change in the Customs Services' ruling since the foreign country of origin of imported tomatoes is still not made clear to the ultimate purchaser, the retail consumer, as provided for in Section 304 of the Tariff Act of 1930. The Exchange feels this bill, requiring labelling of all imported fresh fruits and vegetables at retail, will not only aid the American agriculture industry, but will aid the U.S. consumer as well.

H.R. 1893 will give the consumer the benefit of more information so that he or she can make a better informed decision when buying fruits and vegetables. At the retail level foreign and domestic produce are often commingled and labelled as domestic produce. This is clearly intended to mislead consumers into thinking they are purchasing 100 percent domestic produce. For example, recently the domestic pistachio industry in California was seriously hurt by imported pistachios from Iran which were sold in the U.S. under the label "Pride of California". If H.R. 1893 is passed, it will no longer be legal to use deliberately ambiguous or improper language when labelling imported produce or their containers or bins. The United States consumer deserves to know exactly what he is buying.

Another good reason for the passage of this bill involves the duty of the Congress to protect the welfare of its constituency. Several General Accounting Office reports have found that foreign growers use pesticides on their produce that have been banned in the United States because they have been found to endanger not only the environment, but also human life. The consumer has a right to know of the potential danger in the consumption of foreign produce treated in this way. Labelling produce bins as to country of origin would enable the consumer to distinguish between foreign grown and domestic grown produce so he would not have to run the risk of unwittingly ingesting harmful pesticide residues.

The labelling of all imported fresh fruits and vegetables also appeal to the consumer's sense of patriotism. If the average consumer had a choice between choosing foreign produce and domestic produce, many would choose to "buy American". Now they do not have this choice. In Florida there is a state law which requires the labelling of produce bins as to country of origin of the produce. As Floridians, we can say that the consumers like being given a choice, and feel better in knowing the origin of the produce they are purchasing. The correct labelling of produce also enables consumers to get better deals due to the frequent discrepancies in price between domestic and foreign produce.

FTE has heard some negative comments about the concept of country of origin labelling. FTE feels these comments are unfounded.

Some have said that this bill would be too costly and unenforceable. They have said that the Customs Service would have to hire thousands of new workers to police the supermarkets. This is not true. FTE feels that a good workable and non-costly solution would be to institute a cooperative Customs Service-State enforcement agency agreement. The individual state already inspects all stores. All that would have to be done is to have them check the bins for proper labelling. If the state inspectors find a problem with the labelling, they would inform the Customs Service of the retailer's non-compliance, and the Customs Service could then investigate. Or, a warning notice, with copy to the Customs Service, could be issued to the non-complying store. We also feel that if stiff penalties for non-compliance with the bill are imposed, the law would be virtually self-policing. Reports from the Florida Department of Agriculture confirm that the administration of Florida's labelling law and its enforcement are workable and effective with very little cost and no additional personnel.

Another criticism of H.R. 1893 is that the public neither cares about nor wants information concerning country of origin. By living in Florida where a similar labelling law is in effect, FTE has found this simply to be untrue. Purchasers use this information to make better informed choices about what they are buying.

The food service industry is worried that this legislation will apply to salad bars found in their establishments. FTE feels that H.R. 1893 excludes salad bars from the labelling requirement specifically because it states that "if the imported articles are offered for sale individually", then they shall have to be labelled. We feel that a salad is not an individual item, but an item made up of many different parts. Therefore, since a salad is not sold item by item, but as a whole, it is exempt from labelling. If any confusion obtains because of this particular concern, FTE would support an amendment to the bill to include specifically only retail grocery outlets.

In conclusion, FTE feels this bill is a much needed clarification of what is already implicitly stated in the Tariff Act of 1930. The Act states, in Section 304, that "every article of foreign origin (or its container) imported into the United shall be marked in a conspicuous place . . . as to indicate to an ultimate purchaser in the United States the English name of the country of origin of the article." We feel that with today's technology that all imported fresh fruits and vegetables can and should be marked according to the provisions of, and the original intent of, the Tariff Act of 1930. This marking of imported fresh fruits and vegetables would make it possible for the ultimate purchaser, the consumer, to know whether or not what he or she is purchasing is imported. This bill ensures that the Customs Service will enforce the spirit of the law of the Tariff Act of 1930 which has so long been ignored.

**H.R. 1981**

*To amend the Trade Act of 1974, and for other purposes (relating to magnetic video tapes)*

STATEMENT
OF
BELL & HOWELL/COLUMBIA PICTURES VIDEO SERVICES
ON
H.R. 1981

Bell & Howell/Columbia Pictures Video Services (BHCP) strongly supports passage of H.R. 1981 because the bill would correct an anomaly in the Tariff Schedules, thereby preventing the imposition of a duty of approximately 39 percent on imports of pre-recorded magnetic video cassettes, and would enable U.S. producers to supplement their existing domestic capacity to meet current demand for these video cassettes. Furthermore, passage of H.R. 1981 would rectify recent decisions by the Customs Service that are contrary to case law and prior administrative rulings and have the effect of denying duty-free GSP treatment to certain video cassettes.

## Background

### 1. Business Operations

BHCP is a partnership in which Bell & Howell Company and subsidiaries of The Coca-Cola Company and Gulf + Western Inc. are partners. BHCP is a contract duplicator: it obtains master video tapes of programs from program owners, duplicates the programs onto individual video cassettes, packages the cassettes, and sells the cassettes to the program owners. The programs include entertainment, theatrical, self-help, training and industrial programs. BHCP currently operates three plants in the United States (Northbrook, Illinois; Garden Grove, California; and El Segundo, California). BHCP also operates a duplicating facility in Mexico through its 49-percent owned subsidiary, Central de Video, S.A. de C.V., a "maquiladora" company located in Mexicali.

BHCP's business incorporates three distinct industrial operations: the manufacture of plastic cassette shells; the production of blank cassettes; and the programming of these cassettes. BHCP manufactures the bulk of the plastic shells it uses at its plant in Northbrook, Illinois; the rest are purchased from outside suppliers. When the shell manufacturing process is completed, the shells are shipped to the various other plants, including the one in Mexico, for production into pre-recorded video cassettes. The shells used in the Mexican facility are either manufactured by BHCP or purchased from U.S. suppliers.

### 2. Tariff Treatment

Pre-recorded video cassettes, that is, "magnetic video tape on which pictures or pictures and sound have been recorded," are currently classified under TSUS item 724.12, dutiable at 0.2¢ per linear ft. under Column 1 for countries benefiting from Most-Favored-Nation (MFN) treatment; at 1¢ per lin. ft. under Column 2 for imports from non-MFN countries; and also at 0.2¢ per lin. ft. for imports from Less Developed Developing Countries that received the benefits of accelerated staged duty reductions under the Tokyo Round of Trade Agreements. The 1987 Column 1 duty-rate of 0.2¢ per lin. ft. has been staged down from 0.4¢ per lin. ft. in 1979. Under the proposed Harmonized System the duty would remain the same.

Video cassettes are eligible for duty-free treatment under GSP, the U.S.-Israel Free Trade Agreement, and the Caribbean Basin Initiative. Mexico is a designated "Beneficiary Developing Country" (BDC), imports from which may qualify for GSP treatment. In contrast, both motion-picture film (pre-recorded) and newsreels are duty-free.

Under the Nairobi Protocol to the Florence Agreement (Agreement on the Importation of Educational, Scientific and Cultural Materials, 17 UST 1835; TIAS 6129; 131 UNTS 25), as implemented by Pub. L. 89-651 and Pres. Proc. 5021 of February 14, 1983, blank and pre-recorded video cassettes were afforded duty-free entry into the United States from February 14, 1983, through August 11, 1985. Since August 12, 1985, imports from MFN countries have been subject to the regular Column 1 duty rate, unless otherwise eligible for duty-free treatment under other authority. Although H.R. 3 provides for the extension of the Nairobi Protocol, that legislation would in general exclude pre-recorded video cassettes from duty-free treatment if they are imported for commercial use.

As stated above, imports of pre-recorded video cassettes are eligible for duty-free entry from Mexico under the GSP. However, two recent rulings issued to BHCP by the U.S. Customs Service (dated May 20, 1986, and reaffirmed on April 20, 1987) would deny GSP status to certain pre-recorded cassettes manufactured in Mexico from non-Mexican origin cassette shells and bulk magnetic media. According to the Customs rulings, the video cassettes failed to satisfy the 35-percent "value-added" requirement prescribed in section 503(b) of the Trade Act of 1974 because the blank video cassettes, before they were programmed with movies, did not constitute articles produced in Mexico. The Customs Service reasoned that the process of making blank video cassettes from non-Mexican origin cassette shells and bulk magnetic media*/ did not "substantially transform" these materials into new articles produced in Mexico, and thus the cost of the shells and magnetic media cannot be counted toward satisfying the 35-percent requirement. The result of these rulings is that short pre-recorded cassettes from Mexico are eligible for GSP treatment, while longer-length cassettes (over 60 minutes) are not.**/

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*/ Bulk magnetic media must be imported into Mexico because there is no domestic video tape manufacturing industry in Mexico.

**/ For shorter cassettes, the direct processing costs incurred in Mexico (without regard to the cost of the shells and magnetic tape) represent more than 35% of the appraised value of the imported article. Since magnetic tape is the most costly component of video cassettes, longer-length cassettes are more valuable. Thus the direct processing costs alone will tend to fall below the 35% threshold as the length increases.

## Necessity for the Legislation

### 1. Correction of Anomalous Tariff Structure

As stated previously, the duty on pre-recorded video cassettes is assessed on the basis of the length of tape contained in the cassette rather than on an ad valorem basis. Obviously, the longer the program, the higher the duty, as illustrated in the following chart:

DUTY IMPACT ON PRE-RECORDED VHS CASSETTES

| Tape Length | Entered Value | Column 1 Duty | Ad Valorem Equivalent |
|---|---|---|---|
| 30 min./(200 ft.) | $2.39 | $0.40 | 17% |
| 45 min./(300 ft.) | $2.60 | $0.60 | 23% |
| 60 min./(400 ft.) | $2.91 | $0.80 | 27% |
| 90 min./(600 ft.) | $3.51 | $1.20 | 34% |
| 120 min./(800 ft.) | $4.12 | $1.60 | 39% |

There are two fundamental flaws with the current tariff structure for video cassettes. First, the duty is extremely high on an ad valorem equivalent basis, reaching about 39% for a 120-minute video tape, which is approximately the length of a full-length movie. Duties this high are generally reserved for products from unfriendly countries subject to the Column 2 rates rather than friendly nations receiving MFN treatment. Because the video cassette industry anticipates profits of less than 10% on imports, the extraordinary duty renders operations in friendly countries economically impossible.

More important, however, is the unintended and disproportionate effect of the duty on pre-recorded video cassettes imported for home use. As a general rule, imports under TSUS item 724.12 consist of two different products, as reflected in the statistical annotations: (1) TSUSA item 724.1220 ("Magnetic video tape ... [o]f a width not exceeding 5/8 inch, in cassettes"), covering video cassettes for use in home video cassette recorders (VCRs), which contain 1/2 inch wide tape; and (2) TSUSA item 724.1260 ("Other"), covering "master" tapes of foreign television programs and foreign movies for broadcast by U.S. television stations or for duplication in the United States, which are generally one inch wide or larger, and 3/4 inch video cassettes for educational, institutional and industrial use.

Although video tape technology has existed since the early 1960's, only in the last three to four years has video tape been used in the home by consumers, as the price of VCRs has declined significantly. From the early 1960's to the early 1980's, the great bulk of imports were either "master" tapes or 3/4 inch cassettes. Since then, imports of video cassettes for sale or rental to home users (TSUSA 724.1220) have increased as demand has grown, while imports for television broadcast, other commercial or educational display, and duplication have remained fairly constant. The dramatic increase in imports of video cassettes for home use is illustrated below:

IMPORTS OF PRE-RECORDED MAGNETIC VIDEO TAPE

| Description | Quantity (units) | | | |
|---|---|---|---|---|
| TSUSA | 1983 | 1984 | 1985 | 1986 |
| 724.1220 (cassettes 5/8" and under) | 235,044 | 192,997 | 655,217 | 1,028,210 |

Source: USITC data

The tariff rate of 0.2 cents per linear foot for all imports under TSUS item 724.12 represents a glaring anomaly in the Tariff Schedules, since the same tariff burden is imposed on products with vastly different economic values. The value of a "master" tape of a television program ranges between about $10,000 and $1,000,000, depending on the program's popularity, and averages roughly $50,000; the duty on such a "master" tape would be about $12.00, or 0.024 percent ad valorem for the average 2-hour "master" tape. In contrast, a video tape of the same program imported for use in a home VCR is worth less than $5, but is subject to a duty of $1.60, almost 40 percent ad valorem. If the tariff burden on video cassettes imported for home use were made proportionate to the tariff burden on "master" tapes on an ad valorem basis, the duty on video cassettes for home use would be virtually zero. The explanation for this differential, of course, is that video cassettes for home usage were not items of trade until recently and were duty-free under the Nairobi Protocol until late 1985. Thus, there has been no opportunity for Congress to take corrective action.

2. Need for Additional Sources of Supply

BHCP, in conjunction with its Mexican partners, opened the Mexicali facility in 1985 to develop an additional source of supply for what it correctly perceived to be an expanding market for pre-recorded video cassettes for use in home VCRs. Over $10 million was invested in plant and equipment in Mexicali. The Central de Video "maquiladora" facility was chosen in part because of its proximity to technical trade schools that provide the training essential to the performance of many of the technical operations involved in the production of video cassettes. The plant was also located in Mexicali because the facility could produce both VHS-format cassettes for the U.S. market as well as Beta-format cassettes for the Mexican market.

The U.S. market is beginning to experience significantly increased demand for pre-recorded video cassettes for home display and a shortfall in domestic capacity. For example, before 1987, sales of 350,000-400,000 cassettes of a particular title were regarded as extraordinary. This year, however, almost 3 million copies of a single title, "Top Gun," have been sold already. Demand for all titles is expected to remain strong.

BHCP does not have the capacity at its three existing U.S. facilities to meet current and anticipated demand over the next few years. Moreover, BHCP cannot turn to other facilities located in

the United States because duplicators must utilize their own plants to ensure that quality control standards and production and delivery schedules are met. Therefore, it is essential that BHCP be able to utilize the Mexicali facility for longer-length cassettes as soon as possible. As pointed out above, however, BHCP will not be able to utilize the Mexicali facility to meet the demand for full-length movies if the high tariff burden is continued. Unless the duty is suspended, BHCP will have no alternative but to terminate its Mexican operations. The result will be that BHCP will be unable to produce enough pre-recorded video cassettes to meet the rising demand for the product.

3. Correction of Inequitable Rulings Denying GSP Treatment

As explained above, the Customs Service recently ruled that certain pre-recorded cassettes imported from Mexico may not be eligible for GSP treatment unless direct processing costs alone meet the 35-percent threshold prescribed in the GSP statute. BHCP believes that the rulings are incorrect. The cost of cassette shells and bulk magnetic media imported into Mexico should count toward satisfying the 35-percent requirement because those materials are "substantially transformed" into blank cassettes in Mexico before they are used to make pre-recorded cassettes.*/ The Customs Service's determination that the production of blank cassettes does not constitute a "substantial transformation" runs counter to a long line of judicial authorities and even Customs' prior administrative rulings. See unpublished ruling dated June 16, 1980, CLA-2:RRUCSC (063646) (bulk recording tape that was cut and wound onto pancakes was substantially transformed for GSP purposes); unpublished ruling dated June 30, 1980, CLA-2:RRUCSC (061909) (tape that was cut and spliced into pre-leadered pancakes and then wound onto cassette hubs was substantially transformed into a new and different article). See also Torrington Co. v. United States, 764 F.2d 1563 (Fed. Cir. 1985) (wire that was processed into needle swages and then into finished needles underwent two substantial transformations for GSP purposes); Belcrest Linens v. United States, 741 F.2d 1368 (Fed. Cir. 1984) (pillowcases made from pre-embroidered bolts of fabric were substantially transformed); Texas Instruments, Inc. v. United States, 681 F.2d 778 (Fed. Cir. 1982) (assembly of integrated circuits and photodiodes constituted substantial transformation for GSP purposes); Diamond Match Co. v. United States, 49 CCPA 52, C.A.D. 796 (1962) (inserting wooden stick

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*/ It is undisputed that programming the blank cassettes with movies constitutes a "substantial transformation." Thus, the manufacture of blank cassettes from shells and magnetic media followed by the programming of the blank cassettes should satisfy the "dual substantial transformation" standard applied in determining GSP eligibility.

into ice cream changes name, character and use of stick, i.e., would qualify as a substantial transformation); Cardinal Glove Co. v. United States, 4 CIT 41 (1982) (sewing together glove panels constitutes substantial transformation); Grafton Spools Ltd. v. United States, 45 Cust. Ct. 16, C.D. 2190 (1960) (winding ribbon onto empty typewriter ribbon spools resulted in change of name, character and use of the spools, i.e., would constitute a substantial transformation).

The duty suspension provided in H.R. 1981 would cure the inequitable result produced by the Customs Service rulings on the GSP treatment of video cassettes.

## Conclusion

For the reasons set forth above, BHCP respectfully urges the Committee to act favorably on H.R. 1981 and to suspend, on a temporary basis, the duty on pre-recorded magnetic video tape imported for home use. Of course, if significant tariff concessions can be obtained from our trading partners, Congress should consider making the suspension permanent to eliminate the tariff anomaly and the onerous tariff burden on video cassettes imported for home use.

## H.R. 1991

*To suspend temporarily the duty on certain unstuffed dolls*

No statements submitted.

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## H.R. 2033

*To extend the existing suspension of duty on certain diamond tool blanks*

### TESTIMONY OF D. WILLIAMS

Mr. Chairman and Members of the Subcommittee:

My name is Dennis Williams, I am the Manager of Compacts Marketing for the Specialty Materials Department of General Electric Company headquartered in Worthington, Ohio.

This statement is submitted on behalf of General Electric Company in support of H.R. 2033, a Bill which provides for the extension of the suspension of duty on imported polycrystalline diamond compact ("PDC") tool blanks and drill blanks. These products are manufactured by General Electric Company at its Specialty Materials Department which has manufacturing facilities in Worthington, Ohio and Dublin, Ireland. Both of these facilities are involved in the manufacture of PDC blanks which blanks are distributed throughout the world. These products are used as drill blanks and tool blanks, predominately in the oil and gas exploration industry but also, to a lesser extent, in other mining and industrial applications.

A polycrystalline diamond compact blank is comprised of randomly oriented, synthetic diamond crystals bonded together by a high-pressure, high-temperature process which may or may not be bonded to a substrate (most typically a cemented tungsten carbide). PDC blanks come in a variety of shapes, including cylinders, triangular prisms, etc.

As noted, PDC blanks are used in a number of natural resource development and other industrial applications. These would include the use of PDC blanks in the manufacture of drill bits used in oil and gas exploration and various mining functions. All major domestic U.S. manufacturers of oil and gas exploration bits purchase PDC blanks.

In 1984 H.R. 4482 was enacted providing for a new tariff classification and a suspension of duty for PDC tool blanks and drill blanks. The new tariff classification became effective in November, 1984. A question has arisen as to whether the duty suspension has resulted in the transfer of domestic jobs to foreign manufacturers. In November 1984 the Worthington facility employed 583 production personnel. In May 1987 the Worthington facility had 591 production employees. The duty-free provision clearly has had no impact on domestic employment at General Electric.

General Electric has not used its Irish subsidiary to transfer PDC blank production because of the duty suspension. Less than 25% of the PDC blanks manufactured by General Electric are produced at our Irish facility and only half of the Irish production is imported into the United States. In fact, since 1984 the percentage of manufacturing capacity dedicated to PDC blanks production has gone from 98 in 1984 to 26 in 1987. There is no real advantage to shifting production to Ireland as the production wage rate is 80% of the wage rate for a production worker at the Worthington facility.

The duty suspension has been reflected in reduced prices to purchasers of PDC blanks. Since 1984 drill blank prices have been reduced 12% and tool blank prices are down by approximately 30%.

The original legislation was intended to benefit the depressed oil and gas exploration industry. As you know, oil and gas exploration has not rebounded to the levels enjoyed in the early 1980's. As such, it continues to be important to support the availability of low cost raw materials so that drill bit manufacturers using PDC blanks can maintain competitive prices thereby increasing the economic viability of hard hit drill bit manufacturers. Imports of PDC blanks has decreased dramatically during the period when the duty suspension has been in effect. In 1985 $9.47 million of PDC blanks of which $8.92 million came from Ireland. In 1986 total imports declined to $7.86 million of which $6.51 million came from Ireland. This represents a 17% decrease in imports of PDC blanks. It should be noted that in 1986 there were no imports of PDC blanks from South Africa. This decrease reflects the continued decline of the drill bit market in the United States.

Domestic competition continues to be minimal. General Electric has a strong patent position in the PDC blank market. Several manufacturers, domestic and foreign, have taken licenses under the General Electric patent. One domestic manufacturer has declined the offered license. Total domestic production, other than General Electric, represents less than 5% of U.S. sales of PDC blanks. The lack of growth in the domestic industry reflects the failure of oil and gas exploration businesses to recover from the depressed levels existing in 1984. U.S. production other than General Electric is limited in capacity and has not been a factor in the market place even during the period when the oil and gas exploration industry was strong.

General Electric manufactures PDC blanks at both Worthington, Ohio and Dublin facilities. GE continues to be the dominant factor in the PDC blank market. No foreign competitor has made serious inroads into the U.S. market by virtue of the duty suspension. The market share of the domestic manufacturers have not grown although they are operating at a near full capacity.

All of the data available to General Electric suggest that the duty suspension has had no adverse impact on the viability of the domestic PDC blank industry. It has allowed drill bit manufacturers to enjoy lower prices for PDC blanks which in turn has allowed those manufacturers to maintain an active participation in the oil and gas exploration industry. The institution of duties on PDC blanks will result in higher costs to drill bit manufacturers resulting in higher drilling costs. This will not benefit the U.S. drilling industry which continues to be depressed.

MEGADIAMOND
A Smith International, Inc. Company

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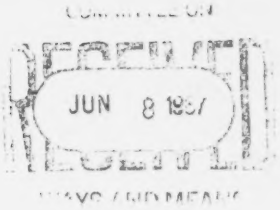


June 3, 1987

The Honorable Dan Rostenkowski, Chairman
House Ways and Means Committee
2111 RHOB
Washington, D.C. 20515

Re: Tariff Bill H.R. 2033

Dear Congressman Rostenkowski:

On May 29, 1987, we met with our Congressman, the Honrable Howard C. Nielson, regarding the proposed Tariff Bill H.R. 2033. He indicated that any concerns or complaints regarding the Bill were to be filed with you no later than June 12, 1987. I am therefore taking this opportunity to express our concerns regarding this Bill.

This legislation was introduced by the Honorable Bill Archer of Texas and is designed to extend the suspension of duty on drill blanks, primarily comprised of industrial diamond shipped into the United States. The original bill that suspended the tariff was H.R. Bill 4482, passed in 1984. The purpose of the Bill was designed to favor drill bit manufacturers who have faced a depressed market for several years.

Although we can understand the need to encourage oil and gas exploration in the United States, we find H.R. Bill 2033 an unacceptable encouragement option. We find the bill discriminatory and vigorously oppose it. We have attached a schedule which summarizes reasons for our strong opposition.

Thank you for your consideration of this matter.

Cordially,

George J. Talbot
Administrator, Smith Megadiamond

cc: The Honorable Howard C. Nielson
Members of the House Ways and Means Committee

ANALYSIS OF H.R. 4482 PASSED IN 1984 AND PROPOSED BILL H.R. 2033

PURPOSE OF THE BILL

In presenting H.R. bill 2033, the Honorable Bill Archer of Texas stated, "The suspension of duty in 1984 allowed the drill blank industry to reduce costs to drill bit manufacturers. If duty free treatment is terminated, costs will unnecessarily be increased to manufacturers who are not in a position to absorb them."

PROBLEMS ASSOCIATED WITH PASSAGE OF THE BILLS

1 - There was no provision in the 1984 Bill that required a reduction in price equal to the tariff reduction and that tariff savings must be passed on to the drill bit manufacturers. Some evidence suggests that prices did not decrease to drill bit manufacturers due to the bills passed in 1984. Therefore, the corporations benefiting from the Bill have turned the tariff reductions into tax free profits.

2 - In 1984, there were four domestic corporations manufacturing industrial diamond for drill blanks. These were:

| | |
|---|---|
| Megadiamond Industries, Inc. | Provo, Utah |
| U.S. Synthetic | Orem, Utah |
| Valdiamant | Ann Arbor, Michigan |
| General Electric | Dublin, Ireland and Worthington, Ohio |

General Electric moved much of their manufacturing operation for polycrystalline diamond to the Dublin Plant between 1981 and 1984. Here they enjoyed a labor rate of approximately one-third of that in the United States, a corporate tax holiday on the Dublin Plant, and passage of H.R. bill 4482 which required no 6% tariff on shipments into the United States. With no provision in the bill that would require tariff savings to be passed on to the manufacturers of drill bits, General Electric had the opportunity to improve their profit picture. It is our understanding that after the passage of H.R. Bill 4482, additional polycrystalline diamond operations were transferred to the Dublin Plant. The assets of Valdiamant were recently purchased by General Electric, the employees were terminated (approximately 50) and the plant closed.

Smith Megadiamond, Inc. and U.S. Synthetic remain as the only two domestic corporations manufacturing polycrystalline diamond exclusively in the United States. These two companies are capable of meeting all domestic demands.

3 - With passage of H.R. Bill 4482, foreign corporations could now ship in polycrystalline diamond duty free and compete with the domestic corporations. These foreign corporations are:

a - DeBeers who has plants in Ireland and South Africa.
b - Sumitomo who has a plant in Japan.

These respective countries do not reciprocate in suspending tariff on polycrystalline diamond shipped to them by United States corporations.

4 - H.R. Bill 2033, if passed, would encourage all domestic corporations manufacturing polycrystalline diamond to move their plants to a foreign soil in order to effectively compete. This would mean additional employee terminations domestically, and there would no longer be domestic corporations manufacturing polycrystalline diamond.

5 - This Bill seems to clearly favor General Electric, with foreign corporations riding on their coattails. This is all done at the expense of exclusively domestic corporations and fair international trade.

## H.R. 2034

*To amend section 507 of the Tariff Act of 1930 to provide an allowance for detectable moisture and impurities in determining tare on imports of crude oil and petroleum products*

**COMMENTS ON H.R. 2034**

**SUBMITTED BY**

**THE AMERICAN PETROLEUM INSTITUTE**

**JUNE 12, 1987**

The American Petroleum Institute (API) offers comments in support of H.R. 2034 which would amend Section 507 of the Tariff Act of 1930 (19 USC 1507) to provide allowance for all detectable moisture and impurities in determining tare on importing crude oil and petroleum products.

API is a non-profit trade association chartered in the District of Columbia. Many of its 215 corporate and 5,000 individual members are engaged in shipment, measuring, sampling and testing of petroleum and its products.

H.R. 2034 would amend Section 507 of the Tariff Act of 1930 (19 USC 1507) to eliminate the need for a costly and burdensome reimbursement procedure for both importers and U.S. Customs. It would permit the U.S. Customs Service to more closely conform its procedures to current commercial practice and other governmental purchase policies, increase the accuracy of Federal import statistics, and permit full application of existing and future technology. Section 507, as currently written, is anachronistic and limits the ability of the U.S. Customs Service to revise its regulations to allow the application of available testing technology.

U.S. Customs Service regulations (19 CFR 151.46) provide for an allowance (a deduction) for amounts of water and sediment in excess of 0.3% of cargo volume for crude oil imports and in excess of up to 0.5% water and sediment for petroleum product imports. In practice, an importer whose crude oil cargo contains 0.8% water and sediment, for example, is assessed duty on the 0.8% water and sediment. The importer is free to file a claim with the U.S. Customs Service for reimbursement of the duty paid on 0.5% of cargo volume, but this represents an unnecessary paperwork burden on industry and the U.S. Customs Service. In addition, the importer does not typically receive reimbursement until approximately 4-6 weeks after filing. H.R. 2034 would eliminate the need for this reimbursement procedure.

The commercial portion of petroleum transactions, both domestically and internationally, is currently conducted on a net standard volume basis, whereby the total volume of water and sediment detected in a cargo is deducted prior to calculation of a transaction volume. The commercial portion of U.S. government purchases of crude oil for the Strategic Petroleum Reserve and petroleum products through the Defense Fuel Supply Center are conducted on a net standard volume basis. Calculations of cargo volume for the purpose of U.S. Customs duty assessment are the only known instance, either domestically or worldwide, where any quantity of water and sediment is included in the calculation of cargo volume. Adoption of H.R. 2034 would provide the statutory authority necessary for the U.S. Customs Service to correct that anomaly.

The U.S. Customs Service authorizes the use of private, voluntary standardized test methods to determine the quantity of water and sediment detected in imported crude oil and petroleum products. These test methods are also employed by industry. Because of the statutory constraints contained in Section 507, the U.S. Customs Service is prevented from allowing the deduction of all detectable water and sediment as determined by these test methods. Adoption of H.R. 2034 would remove that statutory constraint.

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1/ With respect to crude oil and petroleum products, U.S. Customs Service regulations (19 CFR 151.46) interpret the phrase "moisture and other impurities" to mean "water and sediment."

**BP North America Petroleum Inc.**

Three WestLake Park
550 WestLake Park Boulevard
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Houston, Texas 77079
(713) 558-3443

June 3, 1987

Mr. R. J. Leonard
Chief Consul
Committee on Ways and Means
U. S. House of Representatives
Room 1002, Longworth House Office Bldg..
Washington, DC 20515

Dear Sir:

On behalf of BP North America Petroleum, Inc., (BPNAP), I would like to submit the following comments on Bill # HR 2034, a proposed amendment to the Tariff Act of 1930.

BPNAP is wholly in favor of this amendment to provide an allowance on Tare for unusable "Sediments and Water" entrained in Crude Oil and Petroleum products.

Our company welcomes this amendment and looks forward to its implementation in the not too distant future.

Sincerely,

for David J. Kinnaird
Technical Services
BPNAP Houston

DJK:jd

WUD Telex No 77-4362
WUD TWX No 910-881-2500

Chevron U.S.A. Inc.
575 Market Street, San Francisco, California
Mail Address: P.O. Box 7643, San Francisco, CA 94120-7643

June 10, 1987

C.L. Blackwell, Jr.
General Manager
Supply Planning & Transportation
Supply & Distribution Department

U. S. Representative
The Honorable Sam M. Gibbons
United States House of Representatives
Washington, D.C. 20515

Dear Representative Gibbons:

The following are comments from Chevron USA Inc. concerning House Bill H.R. 2034 which would amend Section 507 of the Tariff Act of 1930. Chevron USA Inc. fully supports passage of this bill.

As a significant importer of crude oil and products, Chevron is opposed to paying import duty on measureable levels of sediment and water (S&W) in their imported crude and products. Current measurement methods can accurately measure essentially all S&W quantities which accommodates the full exclusion proposed in the bill.

In addition, the amendment would eliminate an inconsistency in Chevron's accounting practices, which like the petroleum industry's in general, are based on a net standard volume basis. With the current law, import statistics do not balance with actual quantities received. Chevron urges prompt approval of this logical and worthwhile legislation.

Very truly yours,

C L Blackwell

Fina Oil and Chemical Company
Post Office Box 849
Port Arthur, Texas 77640

June 10, 1987

Mr. Robert J. Leonard
Chief Counsel
Committee on Ways and Means
U. S. House of Representatives
Room 1102
Longworth House Office Building
Washington, D. C. 20515

Dear Sir:

On behalf of Fina Oil and Chemical Company, I wish to file in support of the bill HR 2034 to permit deduction of all detectable S & W prior to calculation of cargo volume for purposes of U. S. Customs duty assessment.

If enacted, it will greatly reduce the costly time and effort required to process the present payment and claims procedure and also align U. S. Customs policy with international and domestic commercial practice.

Yours truly,

R Smith

Roger Smith
API Member
Committee on Marine Accountability

RS:ec

KOCH INDUSTRIES INC

GAEL FLETCHER
GOVERNMENT RELATIONS REPRESENTATIVE

COMMITTEE ON
RECEIVED
JUN 8 1987
WAYS AND MEANS

June 4, 1987

Robert J. Leonard, Esq.
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
Office Building
Washington, D.C. 20515

RE: H.R. 2034

Koch Industries, Inc. supports H.R. 2034 which provides for the allowance of all detectable moistures and impurities in determining tariffs on imports of crude oil and petroleum products. The petroleum industry has, as a normal part of business, been involved with transactions of oil and products on a dry and clean basis. In other words, it is not customary in our business to pay for moisture or impurities. We believe our industry should not be subjected to a tariff on moisture and impurities, which we cannot refine.

The enactment of H.R. 2034 will help the distressed petroleuu industry.

Gael Fletcher

GF:bw

P.O. Box 2256 • Wichita, Kansas 67201 • 316/832-5525

**Mobil Oil Corporation**

150 EAST 42ND STREET
NEW YORK, NEW YORK 10017-5666

June 8, 1987

Mr. Robert J. Leonard
Chief Counsel
Committe on Ways and Means
U.S. House of Representatives
Room 1102 Longworth House Office Bldg.
Washington, DC 20515

AMENDMENT TO 1930 TARIFF ACT

Dear Mr. Leonard:

The House Ways and Means Committe press release #7 of May 20, 1987 invites public comment on House Bill 2034 proposing amendment to Section 507 of the 1930 Tariff Act. We support this amendment which would bring the assessment of duty on petroleum imports by U.S. Customs into harmony with domestic and international custody transfer practices.

All commercial transactions of petroleum and petroleum products are conducted on the basis of net quantity ~~or after~~ the deduction of any detected sediment and water. Import duty should not be assessed on sediment and water which has no commercial value to the customer. The oil industry's improved technology now allows it to detect S&W within smaller tolerances than previously possible.

Very truly yours,

E K Van Horne

E. K. Van Horne, Manager
Petroleum Loss Control

EKVH/jr
File: 2618.2
AMA.TXT

SGS Control Services Inc.
Redwood Petroleum and Petrochemical division

20 Lafayette Street
Carteret, New Jersey 07008
Tel. (201) 541-7200
Telex: 4754303 (SCRTUI)

June 10, 1987

Mr. Robert J. Leonard
Chief Council
Committee on Ways and Means
U. S. House of Representatives
Room 1102 Longworth House Office Bldg.
Washington, D.C. 20515

Re: H.R. 2034

Dear Mr. Leonard,

We offer our comments for H.R. 2034 to amend section 507 of the tariff act of 1930 to provide an allowance for detectable moisture and impurities in determining tare on imports of crude oil and petroleum products.

Our view supporting the amendment is based on the now greater ability to accurately account for sediments, water and impurities. This is made possible through advancements in technology, precision of equipment and standardization of practice for both sampling and analysis of Crude Oils and Petroleum Products.

Very truly yours,

Vincent J. Fabricatore
Technical Director

cc: Mr. W. Pluss/New York
Mr. J. Johnson/API

/kk

J Donald Annett
Vice President

Texaco USA

1050 17th Street NW
Suite 500
Washington DC 20036

June 10, 1987

The Honorable Dan Rostenkowski
Chairman, Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

REFERENCE: H.R. 2034; to amend section 507 of the Tariff Act of 1930

Dear Mr. Chairman:

Texaco supports passage of H.R. 2034. This bill would amend section 507 of the Tariff Act of 1930 by providing an allowance for detectable sediment and water (S&W) when determining duties on the imports of crude oil and petroleum products. The invitation to provide comments concerning H.R. 2034 was announced on May 20, 1987.

Currently, the Code of Federal Regulations (19 CFR 151.45) requires the United States Customs Service to assess import duties on detected S&W up to 0.3% for crude oil cargoes and up to 0.5% for petroleum product cargoes. Duty is initially assessed on gross volume; duty that is paid on S&W in excess of these levels is refunded after the importer files his claim. Texaco believes that these outdated regulations must be amended and that net standard volume should become the basis for duties assessed ultimately for petroleum imports for the following reasons:

Worldwide Standard - Commercial and government petroleum transactions are calculated on the basis of the net standard volume (NSV), after deducting all detected S&W. Passage of H.R. 2034 would enhance the standardization of the use of NSV worldwide, and make U.S. policy consistent with that of other nations.

U.S. Standard - Importers who sell to the United States Strategic Petroleum Reserve are permitted to deduct 100% of detectable water from their crude oil shipments since the commercial portions of U.S. government purchases are calculated on a net standard volume basis. Unless the Tariff Act of 1930 is amended via H.R. 2034, federal practice will remain inconsistent internally.

Accurate Measurement of Petroleum Imports - Accurate accounting for petroleum imports is hindered by current regulations. The U.S. government calculates the level of petroleum imports on the basis of imported volumes for which duty has been paid. Passage of H.R. 2034 would eliminate effectively this significant overstating of petroleum imports.

Administrative Simplification - The current system to require assessment of duties on gross volumes unloaded, and then rebating a portion of the original assessment at some point in the future, is inefficient from the administrative standpoint. Passage of H.R. 2034 would simplify considerably Customs' and importers' administrative burdens by eliminating the paperwork required to rebate the excess duties.

U.S. Customs Service - The U.S. Customs Service has made it known that it is fundamentally in agreement with the amendment to the current tariff law proposed in H.R. 2034, but believes that the current regulations cannot be changed because of the Tariff Act of 1930.

For the reasons stated above Texaco strongly urges your Committee to enact H.R. 2034 as promptly as possible.

Respectfully,

J Daniel Arnold

JDA:caj

H.R. 2043

*To prohibit the importation of certain products of Australia and New Zealand*

**United States Department of State**

*Washington, D.C. 20520*

JUN 11 1987

Dear Mr. Chairman:

We have received from the Australian Embassy an Aide Memoire written in response to your May 20th request for written testimony for the record from interested parties on, among others, H.R. 2043. We are forwarding it to you under cover of this letter.

With best wishes,

Sincerely,

J. Edward Fox
Assistant Secretary
Legislative and Intergovernmental Affairs

Enclosure: As stated.

The Honorable
Sam Gibbons,
House of Representatives.

AIDE MEMOIRE

The Australian Embassy would like to draw the attention of the Department of State to the fact that in a release dated 20 May, the Subcommittee on Trade of the House Ways and Means Committee sought written testimony for the record from all interested parties on a number of miscellaneous tariff and trade bills.

These bills included HR.2043 (Mr Craig). This bill was introduced in the House on 9 April. An identical bill, S.980, was introduced by Senator Symms in the Senate on the same day. Senator Symms' introductory statement is attached.

The text of the bill is as follows:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the entry, or withdrawal from warehouse, for consumption in the custom territory of the United States after the date of enactment of this Act of any uranium ore (provided for in item 601.57 of the Tariff Schedules of the United States) that is a product of Australia, or of any of the following articles that are products of Australia or New Zealand, is prohibited:

(1) beef or veal, fresh, chilled or frozen, or otherwise prepared or preserved (provided for in item 106.10 and items 107.40 through 107.63, inclusive, of such Schedules),

(2) lamb, live, fresh, chilled or frozen, or otherwise prepared or preserved (provided for in items 100.81, 106.30, 107.70, and 107.76 of such Schedules),

(3) skins bearing wool (provided for in item 123.00 of such Schedules), and

(4) wool (however provided for in subpart C of part 1 of schedule 3 of such Schedules)."

The Australian Embassy would ask the Department of State to oppose further Subcommittee actions on HR.2043 for the following reasons:

It will be noted that the text of the bill provides for the effective banning of imports from Australia of uranium, meat, wool and sheepskins. If enacted, these provisions would clearly be in breach of the GATT (e.g. of Article 1, because they discriminate against a particular country). Furthermore, for the United States to impose quantitative restrictions on unsubsidised imports at this time would be regarded by Australia as a clear breach of the commitments entered into by the United States administration in the context of the current MTN negotiations and the May 1987 OECD Ministerial Meeting. These commitments are not to make the negotiating climate worse as nations attempt to halt and wind back agricultural subsidies.

The rationale for the bill is set out in Senator Symms' statement. Informal discussions with Mr Craig indicate that his rationale is similar, although not identical, to that of Senator Symms.

On Senator Symms' statement, we would comment as follows:

On lamb, imports are not at historically high levels and comprise less than ten percent of the United States' market. Australia supplies one third of those imports or less than five percent of the total lamb market in the United States. Contrary to Senator Symms' stated view, Australia does not subsidize lamb in any way and sells into the United States at non-dumping prices.

Senator Symms also alluded to the problem of the decline in United States' lamb and sheep production. Australia does not perceive this difficulty as resulting from competition from imports, particularly given their small percentage share of the market. As we see it, the main reason for fall in production has been the decline in the United States' demand for lamb due to competition from alternative foods, especially white meats. The Australian industry is actively trying to work with the United States' industry to increase United States' lamb demand, to the benefit of producers in both our countries.

The other major difficulty which the Australian Government would have with Senator Symms' statement relates to his comments on the nature of the Australian/United States Alliance.

Senator Symms said:
"whether those countries (Australia and New Zealand) have fulfilled their treaty responsibilities is now in doubt." He drew a distinction between the position of New Zealand and that of Australia on nuclear ships and on the Alliance relationship generally. However, he continued that the Government of Australia "refused to allow use of its bases by United States' aircraft in monitoring strategic missile tests." He added that (these actions) were "irresponsible denials of obligations taken on by the two countries when they signed the ANZUS pact in 1951."

The Department of State will be aware that the decision not to use Australian territory to monitor MX missile testing in early 1985 was a decision taken by the United States Government, not by the Australian Government.

On the broader question of Australia's alliance with the United States, to which Australia has a strong and continuing commitment, the Embassy would refer to the text of the joint statement issued by the United States Secretary of State and the Australian Foreign Minister on 12 August, 1986 following talks in San Francisco which the United States Secretary of Defense and the Australian Defence Minister also attended.

We refer, in particular,to the following extracts from the communique.

> "...the two governments confirmed that they would continue to hold their regular defence meetings, annual political-military discussions, and annual arms control talks in order to maintain traditionally close consultations between Australia and the United States. Additional contacts to maintain and enhance military-to-military links, including combined exercises, will ensure a continued strong and dynamic security relationship. Both sides stressed the importance of the ANZUS Treaty and of continued cooperation on defence and other matters under the alliance.
>
> Both Governments regretted that the continuation of New Zealand's port and air access policies has caused the disruption of the alliance relationship between the United States and New Zealand. They agreed that access for allied ships and aircraft is essential to the effectiveness of the ANZUS alliance, and that New Zealand's current policies detract from individual and collective capacity to resist armed attack."...

"The Australian Government regretted that no resolution had proved possible of the situation which had developed. The Australian Government repeated the view it had expressed consistently over the last two years that it disagreed completely with New Zealand policy on port and air access and expressed its understanding of the action which the United States had taken."...

"Both the Australian and United States Governments appealed to New Zealand to restore normal port and air access in order to permit a return to trilateral alliance cooperation under ANZUS. In this context Australia retains its bilateral security relationship with New Zealand."

Most recently, the strength of Australia's commitment to its alliance with the United States was reaffirmed in a White Paper issued by our Minister of Defence, Mr Beazley, in March, 1987, a copy of which is attached for ease of reference. Particular reference is made to that section (paragraphs 1.13 to 1.26), which is entitled "Australia and the United States."

As the United States Government knows questions affecting Australian/ United States trade are currently of great public concern in Australia. Were the bill to be passed, it would be seriously detrimental to the bilateral relationship between Australia and the United States.

goal by amending the Federal Election Campaign Act. Taken together, their effort to amend the election laws and raine to revise FCC interpretation should provide us with a necessary, first step toward successful reform.

By refining the definition of "use" in campaign advertising, we can do more to solve the current problems found within our election laws than by any other single initiative we can undertake. Rather than focusing on the myriad of other solutions as the subjects of our debate—limiting the contributions of political action committees [PAC's], establishing public financing, amending the constitution to impose spending limits, and others—we should look to the candidates themselves for the solution.●

By Mr. SYMMS:

S. 980. A bill to prohibit the importation of certain products of Australia and New Zealand; to the Committee on Finance.

PROHIBITION ON IMPORTATION OF CERTAIN PRODUCTS OF AUSTRALIA AND NEW ZEALAND

Mr. SYMMS. Mr. President, as a Senator who has fought long and hard against the folly of protectionism, I encourage my colleagues to support the legislation I am introducing today, not as a protectionist measure, but as a safeguard for the very security of our Nation. This legislation restricts the import of certain products from Australia and New Zealand.

The ability of the United States to produce wool fiber is recognized by Congress as an essential element of overall strategic readiness. The loss of our domestic wool industry would relegate us to complete dependence on foreign sources, sources that may not necessarily share the U.S. interests. In order to avoid that threat, we, as Congress, enacted a National Wool Incentive Program to assure the economic viability of a domestic industry.

Unfortunately, the last vestige of what was once a great American industry is not surviving on mere economic viability. The American wool industry has been declining in the face of rebounding prices. While the price of lamb has reached a 3-year high, domestic sheep and lamb production has dropped more than 20,000 tons. For some reason, passing prosperity has not been enough to entice Americans into the sheep business. After some consideration, I think I know what that reason is.

American industry is driven by people who have a fiercely competitive spirit, an arduous work ethic, and an eagerness to achieve. A nongrowth industry that cannot offer any promise for the future will not survive in the American marketplace. For one thing, it will not attract the young entrepreneurs that are needed to carry it on in future generations. That is precisely the problem facing the American sheep industry.

Sheepmen today are faced with an intolerable situation. If they do nothing, their domestic lamb market will continue to deteriorate. If they actively seek to promote their product, there is little hope for any return on the investment. Their efforts simply translate into increased imports of subsidized New Zealand and Australian lamb. As long as these countries have unlimited access to the American marketplace, our own domestic sheep industry will not hold much promise for future generations.

In spite of this conclusion, I could not justify placing obstacles to free trade in the way of allied countries that have committed themselves to defending the freedom of the American marketplace. However, in the case of New Zealand, and to a much lesser extent Australia, that commitment has not been clear.

A reasonable argument can be made that free access to our domestic lamb market we granted to these countries because of their participation in critical defensive treaties. Whether those countries have fulfilled their treaty responsibilities is now in doubt. The main security treaty between Australia, New Zealand, and the United States of America is knows as the ANZUS pact. That pact requires the member nations to "maintain and develop their individual and collective capacity to resist armed attack."

In spite of this provision, New Zealand today prohibits port calls by United States naval ships carrying nuclear weaponry or powered by nuclear engines. The Government of Australia refuses to allow the use of its bases by United States aircraft in monitoring strategic missile tests. These are irresponsible denials of obligations taken on by the two countries when they signed the ANZUS pact in 1951.

The United States has footed the lion's share of the bill for maintaining the free world's strategic counterbalance to the Soviet Union's nuclear missile force. Whether our ANZUS allies find it unpleasant or not, the fact is that nuclear weapons are, and will remain for at least the next decade and probably beyond, the major component of strategic forces.

To deny access to U.S. ships carrying nuclear weapons while enjoying the freedom that these weapons bring them is not only grossly unfair, but is indicative of the Alice in Wonderland attitude of these countries. That attitude jeopardizes the safety of Australians and New Zealanders as well as Americans.

Up until now, the United States has allowed New Zealand and Australian products to compete in our own markets, even though it causes real hardship to our own domestic lamb and wool industries. We did so in the name of friendship.

It is now apparent that those countries are only profiting from the freedom of American commerce, without being willing to defend that freedom This double standard of morality is intolerable, and must be addressed by the Congress at the soonest possible opportunity. I urge my colleagues to join in cosponsorship and immediate passage of this legislation.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 980

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the entry, or withdrawal from warehouse, for consumption in the custom territory of the United States after the date of enactment of this Act of any uranium ore (provided for in item 601.57 of the Tariff Schedules of the United States) that is a product of Australia, or of any of the following articles that are products of Australia or New Zealand, is prohibited:

(1) beef or veal, fresh, chilled or frozen, or otherwise prepared or preserved (provided for in item 106.10 and items 107.49 through 107.63, inclusive, of such Schedules),

(2) lamb, live, fresh, chilled or frozen, or otherwise prepared or preserved (provided for in items 100.81, 106.30, 107.70, and 107.78 of such Schedules),

(3) skins bearing wool (provided for in item 123.00 of such Schedules), and

(4) wool (however provided for in subpart C of part 1 of schedule 3 of such Schedules).

By Mr. STAFFORD (for himself, Mr. BAUCUS, Mr. DURENBERGER, Mr. MITCHELL and Mr. CHAFEE):

S. 981. A bill to amend the Toxic Substances Control Act so as to require the Environmental Protection Agency to set standards for identification and abatement of hazardous asbestos in Federal and other buildings, and for other purposes; to the Committee on Environment and Public Works.

TOXIC SUBSTANCES CONTROL ACT AMENDMENTS

Mr. STAFFORD. Mr. President, last year I introduced two bills to deal with the hazards of exposure to asbestos fibers in buildings. One of the bills, the Asbestos Hazards Emergency Response Act [AHERA], which addressed asbestos in schools, was signed into law on October 22, 1986. Action on the second bill, which covered asbestos in Federal and other nonschool buildings, was not completed before adjournment. It is a measure similar to the second bill that I am introducing today on behalf of myself, Mr. BAUCUS, Mr. DURENBURGER, and Mr. MITCHELL.

The circumstances justifying enactment of AHERA pertain to asbestos in nonschool buildings, as well. The deadly effects of asbestos fibers are well known. The fibers, when inhaled, penetrate deep into the lung and can cause lung cancer, mesothelioma, and other serious lung diseases 20 to 40 years after exposure.

In the past the absence of standards and guidelines prescribing acceptable means to identify and to protect against exposure to hazardous asbestos—that is, the kind that is easily crumbled, thus releasing fibers—has

SUBCOMMITTEE ON TRADE
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C.

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|---|
| A BILL TO PROHIBIT THE IMPORTATION OF CERTAIN PRODUCTS OF AUSTRALIA AND NEW ZEALAND |
| H.R. 2043 |

COMMENTS OF THE AUSTRALIAN
MEAT AND LIVE-STOCK CORPORATION

The Australian Meat and Live-stock Corporation ("AMLC" or "the Corporation") hereby submits its comments in opposition to H.R. 2043.1/

## I. SUMMARY

The AMLC urges the Subcommittee to reject any further consideration of H.R. 2043. The legislation is wholly unwarranted and unwise. It would violate U.S. and international law; it would contravene U.S. trade and foreign policy; it would contradict Congressional trade legislation currently under consideration; it would hurt American consumers and businesses; it would insult and damage a close and key U.S. ally; and it does not bear even a rational relationship to the bill's apparent objective: to protect the U.S. wool industry.

These comments first give a brief background of the AMLC and then detail the AMLC's objections to the bill.

## II. BACKGROUND

### A. The Australian Meat and Live-stock Corporation

Meat production and exportation comprise a major national industry in Australia. The promotion and operation of this export industry are important to the Australian economy, and in particular to the business and agricultural sectors. To maintain an effective focus for these interests, the AMLC was created on December 1, 1977 as a statutory corporation pursuant to an Australian federal statute, the Australian Meat

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1/ This material is prepared, edited, issued, and circulated by Clifford & Warnke, 815 Connecticut Avenue, N.W., Washington, D.C. 20006, who is registered under the Foreign Agents Registration Act of 1968, as amended, as an agent of the Australian Meat and Live-stock Corporation. This material is filed with the Department of Justice where the required registration statement is available for public inspection. Registration does not indicate approval of this material by the United States Government.

and Live-stock Corporation Act 1977, as amended. The Corporation replaced the Australian Meat Board, a predecessor body with a similar function which was formed in 1935. The AMLC has the statutory responsibility and jurisdiction to oversee all aspects of the Australian meat industry, including the representation of Australian exporters and the control of meat exports from Australia to the United States.

The Corporation has eleven directors constituting a cross-section of the Australian meat industry and the Australian business community. One director of the Corporation is appointed by the Australian Government. The AMLC is supported by a full-time professional staff with representatives posted in key areas around the world. Each area office maintains surveillance for marketing opportunities and observes and reports on such matters as the handling and transportation of Australian meat, its distribution, and customer acceptance. One such representative office is located in New York City.

B. AMLC Business In The United States

The United States imports beef and lamb from Australia. Beef imports constitute approximately seven percent of total U.S. beef supply, and Australia provides approximately fifty percent of U.S. beef imports. Lamb imports constitute approximately nine percent of total U.S. lamb supply, and Australia provides approximately forty percent of U.S. lamb imports.

Australian beef complements -- rather than competes with -- U.S. domestic production. The vast preponderance of Australian beef imported here is blended with fatty-trimmings of U.S. beef to produce hamburger primarily for the fast-food market. Australian beef is ideal for this blending because it is grass-fed and thus much leaner than corn-fed U.S. beef.

Most Australian lamb is imported into the United States in a fresh chilled form. All Australian lamb imports are processed in Australia at USDA-approved packing plants, and are subject to inspection at the U.S. port of entry by USDA inspectors.

Australian chilled lamb is carried by air freight, and the main entry ports are Los Angeles and San Francisco. Australian lamb enters the U.S. market throughout the year, but more is available from September to April -- the Australian lamb-producing season.

III. H.R. 2043

This bill would ban the importation or release from storage in the United States of Australian uranium ore and Australian and New Zealand beef, veal, lamb, and wool. The legislation is brief, consisting of only 142 words. It is also definitive and unconditional: In a single stroke, the legislation virtually would eliminate Australia's major exports to the United States.

A. H.R. 2043 Would Violate U.S. And International Law.

Various federal laws already govern the importation of products covered by H.R. 2043, including the Meat Import Act

of 1979, Pub. L. No. 96-177, 93 Stat. 1291 (1979). This statute provides an elaborate mechanism for regulating meat imports. As detailed directly below, Congress intended the Meat Import Act to be consistent with 1979 international treaty obligations between Australia and the United States.

One of the objectives of the Act is "[t]o provide reasonable access to the U.S. market for imported beef and veal." S. REP. No. 96-465, 94th Cong., 1st Sess. 1, reprinted in 1979 U.S. CODE CONG. & ADMIN. NEWS 2654, 2655. The Meat Import Act thus contains a guaranteed minimum amount of meat imports which can enter the United States each year. This figure was established primarily so that the United States could honor its General Agreement on Tariffs and Trade ("GATT"), Multilateral Trade Negotiations ("MTN") commitment to Australia. In particular, the Governments of Australia and the United States agreed that, irrespective of the otherwise applicable aggregate level of access to the U.S. market in any one year, Australia has the right to its "representative" market share of 1.3 billion pounds as a minimum level of access. See Agreed Record Of Conclusions Reached In Bilateral Negotiations Between The United States And Australia In The GATT Multilateral Trade Negotiations Tokyo Round, March 29, 1979, 32 U.S.T. 5233, T.I.A.S. No. 9975. H.R. 2043 would clearly breach this bi-lateral treaty; it would also be directly inconsistent with the guaranteed minimum access level contained in the Meat Import Act of 1979.

Finally, H.R. 2043 would violate the GATT, to which the United States is a signatory party. The GATT requires members to accord each other Most Favored Nation status, to abide by agreed tariff schedules, and not to nullify or impair trade agreements. Articles I, II, and XXIII. H.R. 2043 would violate all these requirements of GATT and could subject the United States to retaliatory penalties under the GATT procedures. Ultimately, the United States would stand to lose trade concessions in the upcoming Uruguay Round of the GATT should H.R. 2043 become law.

B. H.R. 2043 Would Contravene Basic Principles Of U.S. Trade Policy.

On September 23, 1985, President Ronald Reagan set forth the fundamental elements of U.S. trade policy in an address to members of the President's Export Council And Advisory Committee For Trade Negotiations. The President stated that "the United States has played the critical role of ensuring and promoting an open trading system since World War II." He further emphasized:

> I certainly don't have to explain the benefits of free and open markets to you. They produce more jobs, a more productive use of our nation's resources, more rapid innovation, and a higher standard of living. They strengthen our national security because our economy, the bedrock of our defense, is stronger. (emphasis added)

The President also explained the requirements of free trade: "[T]o make the international trading system work, all must abide by the rules. All must work to guarantee open markets. . . . When domestic markets are closed to the exports of others, it is no longer free trade."

Because it would close U.S. markets to Australian exports, H.R. 2043 would be inconsistent with U.S. trade policy as declared by the President. This would not be free trade or fair trade. More importantly, the legislation would weaken U.S. national security because it would weaken the U.S. economy.

C. H.R. 2043 Would Contradict Congressional Trade Legislation Currently Under Consideration.

Both the House and the Senate are considering comprehensive reform of federal trade laws. The House has enacted H.R. 3 and the Senate is now debating S. 490.

H.R. 2043 would undermine both the procedure and substance of Congress' trade legislation. Procedurally, it would represent an ill-conceived and tardy addition to comprehensive, complex legislation. It would not fill any gap in the provisions now in place, but would instead complicate and confuse them.

Substantively, H.R. 2043 would contravene the fundamental premises and provisions of the current trade bills. It would represent sector-specific, punitive action against individual trading partners. Nowhere in the trade bills is there precedent for this. H.R. 2043 is thus incompatible with Congress' current approach to trade legislation.

D. H.R. 2043 Would Hurt U.S. Consumers And Businesses.

Trade by definition is mutually advantageous. While moderate regulation in trade may serve useful purposes, blanket prohibitions can only be destructive. Those who would appear to benefit in the short run from elimination of competition really would lose in the end from the overall depression of economic activity that trade barriers cause.

H.R. 2043 would directly hurt American consumers by raising prices for the goods affected or perhaps even making them unavailable. Depending on the nature of demand, higher prices could lead consumers to substitute goods and thus actually lower demand for domestic goods. The lamb market, for example, may respond in this way.

H.R. 2043 also would hurt certain American businesses involved in international commerce. Thus, beef processors dependent on Australian product for blending of hamburger would be forced to find alternative sources of supply. American exporters also would face the prospect of formal or informal retaliatory measures if H.R. 2043 were enacted.

E. H.R. 2043 Would Insult And Damage A Close And Key U.S. Ally.

The United States and Australia share regional security policy and extensive commercial relations. As recent events in Fiji have underscored, the entire Pacific Rim is becoming an active arena in world affairs. The Soviet Union, for example, is presently engaged in negotiating fishing-rights agreements with island nations in the region. These

nations continue to make the often-difficult transition from colonialism to independence. Australia is the largest and strongest nation in the region exerting considerable influence there; it is the closest U.S. ally in the area, continuing to share in the ANZUS alliance which it founded along with the United States; and Australia coordinates defense policy with the United States on a global basis and lends facilities and assistance without qualm or quid pro quo.

Australia also is a major trading partner with the United States. There has been a U.S. surplus in trade with Australia since 1952, and it continues today as the third largest U.S. trade surplus worldwide. Australia is the ninth largest U.S. export market; the average Australian buys $350 worth of U.S. goods each year, while the average American buys $11 of Australian goods. Australia itself has a trade deficit larger as a share of G.N.P. than the U.S. trade deficit.

Most significantly, Australia has always traded freely and fairly. There has been absolutely no evidence of subsidized exports or restricted imports by Australia. This is specifically true of Australian exports of beef and lamb to the United States.

Australia also fully and actively supports current U.S. efforts to negotiate relaxation of trade restrictions by Japan and Western Europe, especially in agriculture. It obviously would be difficult for Australia to continue this support if H.R. 2043 were to become law. Indeed, it would be difficult for the United States to continue its own barrier-reduction efforts. Japan and the Western European nations could readily point to H.R. 2043 as proof that the United States lacked credibility in wishing to expand world agricultural trade.

H.R. 2043 would represent a severe blow to U.S.-Australian relations. The United States would have singled out a close, key ally for punitive measures that it has not even considered imposing on its political and military rivals.

F. H. R. 2043 Does Not Bear A Rational Relation To Its Own Purported Objective.

According to the office of Congressman Larry E. Craig, the sponsor of H.R. 2043, the bill was introduced as companion legislation to S. 980, sponsored by Senator Steven D. Symms (R-Id.). When introducing S. 980, Senator Symms stated that the objective of this legislation was to protect the U.S. wool industry. See 133 CONG. REC. S5003 (daily ed. April 9, 1987) (statement of Sen. Symms). According to Senator Symms, this objective requires banning Australian and New Zealand wool, and such a ban should be acceptable because Australia and New Zealand have not met their defense commitments to the United States.

These two pieces of legislation -- H.R. 2043 and S. 980 -- patently fail to meet the stated objective. First, as the AMLC's comments have already shown, the facts simply do not support the premises of the bill. There is no explanation as to why banning uranium, beef, veal, and lamb imports is necessary to protect the U.S. wool industry. Only lamb bears any relation to wool, and the importation of already-slaughtered lamb cannot in any way compete with the raising of sheep for wool in the United States.

Second, the stated rationale of H.R. 2043 and S. 980 is based on erroneous factual assertions. Senator Symms describes Australian lamb as subsidized,[2] even though there has never been any finding or evidence to that effect. He also characterizes Australia's commitment to defense as "not . . . clear,"[3] even though Australia remains a full, active member of the ANZUS alliance. Finally, Senator Symms erroneously implies that the United States has allowed importation of Australian lamb in some form of exchange for Australian defense participation,[4] though in fact the United States currently allows importation of all foreign lamb on an equal basis. In sum, the apparent premise of H.R. 2043 is based on erroneous factual assumptions that offer no support whatsoever for the drastic legislation proposed.

## IV. CONCLUSION

For all of the above reasons, the Australian Meat and Live-stock Corporation respectfully urges the Subcommittee to give no further consideration to H.R. 2043. The legislation should properly be viewed as a political and economic threat to Americans, Australians, and U.S.-Australian relations. It should be quickly rejected.

Respectfully submitted,

Bryan Jay Yolles

Bryan Jay Yolles
Alexander Papachristou
CLIFFORD & WARNKE
815 Connecticut Avenue, N.W.
Washington, D.C. 20006
(202) 828-4200

Attorneys for the Australian
Meat and Live-stock Corporation

Dated: Washington, D.C.
June 12, 1987

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2/ 133 CONG. REC. S5003 (daily ed. April 9, 1987) (statement of Sen. Symms).

3/ Id.

4/ Id.

GEORGE BRONZ (1910-1976)
EDWARD J. FARRELL

C. W. McMILLAN
GOVERNMENT AFFAIRS ADVISOR

PHONE: (202) 298-5966
CABLE: BRONZ

LAW OFFICES
BRONZ & FARRELL
2021 K STREET, NORTHWEST
WASHINGTON, D. C. 20006

June 12, 1987

Mr. Robert J. Leonard
Chief Counsel
Committee on Ways and Means
U. S. House of Representatives
Room 1102 Longworth House Office Building
Wahsington, D.C. 20515

Dear Mr. Leonard:

This letter is submitted on behalf of the New Zealand Meat Producers Board, Wellington, New Zealand in response to your invitation for comments on miscellaneous tariff and trade bills of May 20. Specifically, the Board wishes to register its opposition to H.R. 2043, which would prohibit the importation of a number of products from New Zealand and Australia including beef and lamb. We believe the Committee is well aware that there is no justification for such a prohibition which would violate the U.S.'s obligations under the GATT for no discernible reason.

Sincerely,

Edward J. Farrell

**H.R. 2080**

*To suspend for 3 years the duty on Rosachloride Lumps*

**BASF Corporation**
Chemicals Division

**BASF**

Robert G. Thoma
Director
Public and Government Affairs

June 11, 1987

Mr. Robert J. Leonard
Chief Counsel,
Committee on Ways and Means
U.S. House of Representatives
Longworth House Office Building
Room 1102
Washington D. C. 20515

Dear Mr. Leonard:

I am writing in support of H.R. 2080, legislation introduced by Congressman Solomon to suspend for three years the duty on Rosachloride Lumps.

BACKGROUND

1 Amino-2 chloro-4 hydroxy anthraquinone (Rosachloride) is an intermediate used in production of dyes used for textile fabrics. There are no known domestic suppliers, since the discontinuance of production by BASF in 1978. Subsequently, a more economic route was developed which requires facilities currently not available at BASF's U.S. site. All current imports come from Europe and were approximately 100,000 lbs. during 1986.

USES

Alpha amino-2 chloro-4 hydroxy anthraquinone is used primarily for production of disperse dyes. These dyes are employed for the coloring or printing on textile fabrics including acetate, triacetate, nylon, polyester and various blends of these fabrics. The major dyes that can be produced from this intermediate are Disperse Red 55:1,60,91 and 263.

In 1983 a total of 222,000 lbs. of dyes related to this intermediate chemical were reported to be imported. An estimated 550,000 lbs. of domestically produced dyes were made with this intermediate chemical in 1984.

COMPETITIVE SITUATION

A lower cost for this intermediate will permit an expansion of production in the U.S. facilities and improve competitiveness against any alternate dyes suggested as substitutes. There are currently three U.S. producers listed for these products.

SOURCES OF DATA

Data indicated is based on information available in the USITC reports, Chemical Economics Handbook (SRI International-1981), Encyclopedia of Chemical Producers (SRI International-1982), Encyclopedia of Chemical Technology (Kirk-Othmer-1981), OPD Buyers Directory of Chemical Marketing Reporter (1985 Edition) and Internal BASF Market Research Studies.

We respectfuly urge the Committee give favorable consideration to H.R. 2080

Sincerely,

R. G. Thoma

RGT/MF

**H.R. 2124**

*To impose a temporary duty on laser discs*

**BY PERRMISSION OF THE CHAIRMAN:**

Canadian Embassy

Ambassade du Canada

COMMITTEE ON
JUN 25 1987
WAYS AND MEANS

1746 Massachusetts Ave., N.W.
Washington, D.C. 20036

June 22, 1987

Mr. Robert J. Leonard
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
Room 1102
Longworth House Office Building
Washington, D.C. 20575

Dear Mr. Leonard:

I am writing further to Chairman Gibbons' request for public comments on certain miscellaneous tariff bills (press release No. 7 of May 20, 1987).

H.R.2124, if enacted, would drastically increase the U.S. duty on laser discs (audio compact discs) for five years from the current rate of 0.9 cents per square foot of recording surface to 35 cents per disc. The increase in this bound rate of duty would adversely affect Canadian trade interests and impair benefits accruing to Canada under the General Agreement on Tariffs and Trade.

Yours sincerely,

P.J. Gosselin
for Minister-Counsellor
(Commercial)

**H.R. 2154**

*To amend the Tariff Schedules of the United States to provide for the specific listing of certain benzenoid chemicals with other specifically listed chemicals*

No statements submitted.

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**H.R. 2208**

*To provide temporary duty-free treatment to 2,6-HNA*

PREMARK
INTERNATIONAL

John M. Costigan
Senior Vice President
and General Counsel

Premark International, Inc.
2211 Sanders Road
Northbrook, Illinois 60062
312-498-8474

COMMITTEE ON
RECEIVED
JUN 4 1987
WAYS AND MEANS

June 3, 1987

The Honorable Daniel Rostenkowski
The United States House of Representatives
Chairman, House Committee on Ways and Means
2111 Rayburn
Washington, D.C. 20515

Re: HR 2208

Dear Mr. Rostenkowski:

Premark International, Inc. is a parent company of Dartco Manufacturing Inc. ("Dartco"). Dartco manufactures a number of chemical and plastic products, including liquid crystal polymers. Dartco's manufacturing, research and administrative facilities are in Augusta, Georgia, and employ 294 people. Dartco is in the process of developing both domestic and international markets for these liquid crystal polymers.

Recently we learned that a bill was introduced in the House of Representatives that would seriously affect Dartco's ability to compete with other manufacturers of liquid crystal polymers. We, therefore, object to passage of that bill. Specifically, HR 2208 would temporarily suspend duties on imports of the chemical 6 hydroxy-2-naphthoic acid (2, 6-HNA).

This chemical is used as a raw material in the manufacture of liquid crystal polymers that are sold in competition with the liquid crystal polymer manufactured by Dartco. If HR 2208 were passed, it would give those manufacturers that import the chemical a significant competitive advantage over a nascent domestic producer.

It is our understanding that the United States Government has a policy of not waiving duties on imports when domestic manufacturers could be harmed. Accordingly, we respectfully request that you oppose passage of HR 2208.

Very truly yours,

John M. Costigan

John M. Costigan



81-911 O - 88 - 3

**H.R. 2236**

*To extend for 3 years the suspension of duty on uncompounded allyl resins*

No statements submitted.

---

**H.R. 2255**

*To provide for the temporary suspension of the duty on m-Hydroxybenzoic acid*

# Mobay

Bayer

**Mobay Corporation**
A Bayer USA INC Company

Mobay Road
Pittsburgh, PA 15205-9741
Phone: 412/777-2000

June 2, 1987

Mr. Robert J. Leonard
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Bldg.
Washington, D.C. 20515

SUBJECT: MOBAY OPPOSITION TO HOUSE OF REPRESENTATIVE BILL 2255

Dear Mr. Leonard:

I write in behalf of Mobay to oppose House of Representative Bill 2255 that would temporarily suspend duty on m(meta)-hydroxybenzoic acid (m-HBA). The reason for the opposition is an agricultural product made in the U.S. from imported m-HBA competes in the farm marketplace with one we produce from domestic raw materials. Eliminating the duty on m-HBA would give our competition an unfair advantage and harm our business in the process.

The largest domestic use for m-HBA in the United States is as a raw material in the production of an agricultural herbicide. The herbicide is sold in the farm market sector to control weed pests when raising soybeans, potatoes, cereal grains and other similar crops.

Mobay is a diversified manufacturer of agricultural chemicals. We make and sell a product that also is effective in controlling weed growth involving the same farm crops. In our case, however, the product is produced from raw materials that we either make or acquire domestically. In addition, the production is carried out in a state-side plant that is dedicated to this product and happens to be the world's only manufacturing plant for this particular herbicide.

We strongly oppose a suspension of duty on m-HBA that would place us at a disadvantage with our competition in the marketplace, and urge the committee to reject H.R. 2255.

Sincerely,

Paul Gemeinhardt

Paul G. Gemeinhardt
Director, Communications & Advocacy
for Chemical Industry Issues

## DESCRIPTION OF THE PRODUCT AND ITS USES

Rohm and Haas Company (the Company) is a multinational manufacturer of chemicals and plastics with principal offices in Philadelphia, Pennsylvania.

m-Hydroxybenzoic acid (MHBA) is a benzenoid based carboxylic acid derivative which the Company uses as the principal chemical intermediate in the manufacture of sodium 5[2-chloro-4-(trifluoromethyl) phenoxy]-2-nitrobenzoate, a selective postemergence herbicide commonly known as acifluorfen. After the addition of application adjuvants, formulated acifluorfen is used by farmers to control emerged weeds in soybean, peanut and rice fields.

## OTHER END USES

To our knowledge, there are no commercial end uses for MHBA other than as a chemical intermediate in the manufacture of acifluorfen.

## LOCATION OF PRODUCTION FACILITIES

MHBA is manufactured to order in Ohmuta Kyushu, Japan, by Mitsui Toatsu. It has been imported into the United States since 1979 by Mitsui and Company and sold to Rohm and Haas Company for use in the manufacture of acifluorfen at the Company's Bayport, Texas plant facilities.

In the past, the Company sold acifluorfen through distributors under the Company-owned trademark Blazer. However, the business, including the trademark, has been sold to BASF Corporation (USA), headquartered in Parsippany, New Jersey. The Company will continue to manufacture acifluorfen for sale to BASF Corporation.

## U.S. MANUFACTURERS

There are no U.S. manufacturers of MHBA. Therefore, it is neither necessary nor desirable to continue to maintain a tariff on this product to protect the American industry.

## COMPETITIVE PRODUCTS

There are no other chemical intermediates which can be used as a substitute for MHBA in the Company's process for the manufacture of acifluorfen. Modification of the Company's process to use a different principal chemical intermediate in the manufacture of acifluorfen would require a major additional investment, which is not warranted.

## TARIFF CLASSIFICATION AND DUTY RATE (1987)

Item 404.40, TSUS - (Subpart B, part 1, schedule 4)

5.8% ad valorem

## REVENUE IMPACT OF PROPOSED SUSPENSION OF DUTY

The revenue that would be foregone as a result of the proposed suspension of the duty on MHBA is estimated to be approximately $500,000 for the three-year period 1988 through 1990.

## H.R. 2256

*To provide for the temporary suspension of duty on 2-n-octyl-4-isothiazolin-3-one, and on mixtures of 2-n-octyl-4-isothiazolin-3-one and application adjuvants*

### DESCRIPTION OF THE PRODUCT AND ITS USES

Rohm and Haas Company (the Company) is a multinational manufacturer of chemicals and plastics with principal offices in Philadelphia, Pennsylvania.

The Company plans to import 2-n-octyl-4-isothiazolin-3-one (octhilinone) and mixtures of octhilinone and application adjuvants as a proprietary line of biocides which it sells under the trademarks KATHON and SKANE.

Octhilinone biocides are used to prevent the growth of mildew, mold and other fungi in a wide variety of applications ranging from exterior grade coatings and caulking compounds to wallpaper pastes, textiles, leather tanning, laundry compounds and plasticized polyvinyl chloride applications such as bathroom shower curtains, swimming pool liners and automobile roof coverings.

### LOCATION OF PRODUCTION FACILITIES

Octhilinone biocides are currently manufactured in the semi-works at the Company's Philadelphia, Pennsylvania plant. Demand is projected to exceed semi-works' capacity for this product line, necessitating construction of new production facilities.

A new world-scale plant for the manufacture of these and related new biocides is under construction at Jarrow, U.K. The new plant will be owned and operated by Rohm and Haas, U.K., a wholly owned subsidiary of Rohm and Haas Company (USA). Only one new world-scale plant is required to satisfy world demand for at least the next 10 years.

The Jarrow plant will manufacture octhilinone and other biocides for the U.S. market as well as markets overseas. U.S. demand for these products is projected to be significantly less than half of world-wide demand.

The new plant is scheduled to start up in mid-1988. Exports to the United States will begin shortly thereafter. At that time, production in the Philadelphia plant semi-works will be discontinued.

The semi-works will continue in service for scale-up projects and production of limited volume chemicals. All of the Company's employees involved in the manufacture of octhilinone in the semi-works are scheduled to continue in the semi-works assigned to other projects. Thus, no jobs will be lost when manufacture of octhilinone biocides is transferred overseas.

### U.S. MANUFACTURERS

There are no commercial manufacturers of octhilinone based biocides in the United States other than Rohm and Haas. Company owned patents on such products in the United States and in major western countries extend well into the 1990's. Thus, no other company is likely to undertake manufacture of these products in the United States during the term of the proposed suspension of duty, or in the foreseeable future.

## RAW MATERIAL SOURCES FOR OCTHILINONE

| Source | Share of U.S. Capacity Currently Used for Production of Octhilinone Biocides |
|---|---|
| methyl-3-mercaptopropionate | ≤ 4% |
| n-octyl amine | ≤ 2% |
| monochlorobenzene | ≤ 2% |
| sodium hypochlorite | ≤ 0.3% |
| propylene glycol | ≤ 0.1% |
| sodium hydroxide | ≤ 0.03% |
| chlorine | ≤ 0.01% |

## CUSTOMER NEED AND COMPETITIVE PRODUCTS

There is a wide variety of biocides in use. None offer the combination of advantages available in 3-isothiazolinones such as octhilinone and chloromethylisothiazolinone, which is the subject of separate duty suspension legislation.

Octhilinone biocides are in demand because they are slow reacting, long lasting and effective at lower use levels than competitive biocides. These benefits result in cost performance advantages and lower potential for hazard to users who must include biocides in their finished products. In addition, octhilinone biocides are less hazardous to the environment than organometallic biocides which contain heavy metals such as tin, mercury or arsenic, are biocumulative, and are meeting increasing resistance from regulatory authorities to their continued used in many applications.

## PRESENT TARIFF CLASSIFICATIONS AND DUTY RATES

Octhilinone

Item 425.5290, TSUSA -
Nitrogenous Compounds:
Other:
Other:
Other: 7.9% ad valorem

Mixtures of Octhilinone and Application Adjuvants

Item 430.2040, TSUSA -
Mixtures of two or more organic compounds:
Other: 3.7% ad valorem, but not less than the highest rate applicable to any component*

* the highest rate applicable to any component in currently planned mixtures of octhilinone and application adjuvants is 11.5% - from item 428.3020, TSUSA (propylene glycol)

## REVENUE IMPACT OF THE PROPOSED SUSPENSION OF DUTY

The revenue that would be foregone by enactment of the proposed bill is estimated to total approximately $3 million for the three-year period 1988 through 1990.

## H.R. 2257

*To provide for the temporary suspension of the duty on mixtures of 5-chloro-2-methyl-4-isothiazolin-3-one, 2-methyl-4-isothiazolin-3-one, magnesium chloride, stabilizers and application adjuvants*

### DESCRIPTION OF THE PRODUCT AND ITS USES

Rohm and Haas Company (the Company) is a multinational manufacturer of chemicals and plastics with principal offices in Philadelphia, Pennsylvania.

The Company imports mixtures of 5-chloro-2-methyl-4-isothiazolin-3-one, 2-methyl-4-isothiazolin-3-one, magnesium chloride, stabilizers and application adjuvants as a proprietary line of chloromethylisothiazolinone based biocides which it sells under the trademark KATHON.

KATHON chloromethylisothiazolinone biocides are used in a wide variety of applications ranging from that of a preservative for cosmetics and household chemicals to a slimicide in paper mills and in industrial recirculating-water cooling towers. They are in demand because they are slow acting and long lasting, and are effective at extremely low use levels compared to competitive biocides.

### LOCATION OF PRODUCT FACILITIES

Chloromethylisothiazolinone biocides are manufactured in a dedicated world scale plant at Jarrow, U.K., by Rohm and Haas Company, U.K., a wholly owned subsidiary of Rohm and Haas Company (USA). The Jarrow production facility, started up in 1983, serves world markets, the U.S. market accounting for less than half of the world market. Only one world scale plant is required to supply anticipated world market needs for at least the next 10 years.

### U.S. MANUFACTURERS

There are no commercial manufacturers of chloromethylisothiazolinone based biocides in the United States. Company owned patents on such products in the United States and in major western countries extend well into the 1990's. Thus, no other company is likely to undertake production of these products in the United States during the term of the proposed suspension, or in the foreseeable future.

### RELATED LEGISLATION

Previous legislation enacted during the 98th Congress as Section 153 of Title I of the Trade and Tariff Act of 1984 suspended until December 31, 1987 the duty on a specific group of chloromethylisothiazolinone based biocides described as "mixtures of 5-chloro-2-methyl-4-isothiazolin-3-one[1], 2-methyl-4-isothiazolin-3-one[2], magnesium chloride[3] and magnesium nitrate[4].

1 active ingredient primarily responsible for the products biological activity
2 reaction by-product with some biological activity
3 reaction by-product
4 stabilizer

Since legislation temporarily suspending the duty on such mixtures was enacted, several additional formulations of chloromethylisothiazolinone based biocides have been developed to make use of more efficient stabilizer systems and to meet the needs of new applications for the formulated products. These new formulations include in their compositions not only the active ingredient and reaction by-products, but also different stabilizers or combinations of stabilizers, and other ingredients such as solvents, surfactants, colorants and anti-freeze.

Provision for extension of the duty suspension on the specific group of chloromethylisothiazolinone biocides described in Section 153 is the subject of separate legislation. Additional legislation is needed to provide for the temporary suspension of the duty on formulated chloromethylisothiazolinones other than those covered by Section 153. The proposed legislation which is the subject of this fact sheet would provide that additional coverage. The Company seeks this additional coverage since these products are not manufactured in the United States, and it is therefore neither necessary, nor desirable, for the United States to continue to maintain a tariff on these products to protect an American industry.

Since the duty suspension on the chloromethylisothiazolinone based products provided for in Section 153 has been in effect, there has been no adverse impact on U.S. industry or labor.

## TARIFF CLASSIFICATION AND DUTY RATE

### Classification

Item 432.28, TSUS -
Mixtures not specially provided for:
Other:
Other:

### Duty Rate

3.7% ad valorem, but not less than the highest rate applicable to any component material

## REVENUE IMPACT OF PROPOSED SUSPENSION OF DUTY

The revenue that would be foregone by extension of the suspension in Section 153 of the Trade and Tariff Act of 1984 is estimated to total approximately $4 million for the three-year period 1988 through 1990. Temporary suspension of the duty on the additional products covered by the proposed new legislation which is the subject of this fact sheet would increase the revenue foregone by approximately $50 thousand for a total of $4.05 million for the three-year period 1988 through 1990.

## H.R. 2258

*To extend for 3 years the existing temporary suspension of the duty on mixtures of 5-chloro-2-methyl-4-isothiazolin-3-one, 2-methyl-4-isothiazolin-3-one, magnesium chloride and magnesium nitrate*

### DESCRIPTION OF THE PRODUCT AND ITS USES

Rohm and Haas Company (the Company) is a multinational manufacturer of chemicals and plastics with principal offices in Philadelphia, Pennsylvania.

The Company imports mixtures of 5-chloro-2-methyl-4-isothiazolin-3-one, 2-methyl-4-isothiazolin-3-one, magnesium chloride and magnesium nitrate as a proprietary line of chloromethylisothiazolinone based biocides which it sells under the trademark KATHON.

KATHON chloromethylisothiazolinone biocides are used in a wide variety of applications ranging from that of a preservative for cosmetics and household chemicals to a slimicide in paper mills and in industrial recirculating-water cooling towers. They are in demand because they are slow acting and long lasting, and are effective at extremely low use levels compared to competitive biocides.

### LOCATION OF PRODUCT FACILITIES

Chloromethylisothiazolinone biocides are manufactured in a dedicated world scale plant at Jarrow, U.K., by Rohm and Haas Company, U.K., a wholly owned subsidiary of Rohm and Haas Company (USA). The Jarrow production facility, started up in 1983, serves world markets, the U.S. market accounting for less than half of the world market. Only one world scale plant is required to supply anticipated world market needs for at least the next 10 years.

### U.S. MANUFACTURERS

There are no commercial manufacturers of chloromethylisothiazolinone based biocides in the United States. Company owned patents on such products in the United States and in major western countries extend well into the 1990's. Thus, no other company is likely to undertake production of these products in the United States during the term of the proposed extension, or in the foreseeable future.

### PREVIOUS LEGISLATION

The initial duty suspension on these products was enacted during the 98th Congress as Section 153 of Title I of the Trade and [illegible]ct of 1984. The Company sought initial duty suspension on these products since they were not manufactured in the United States, and it was therefore neither necessary, nor desirable, for the United States to continue to maintain a tariff on these products to protect an American industry.

### TARIFF CLASSIFICATION AND DUTY RATE

Classification

Item 432.28, TSUS -
Mixtures not specially provided for:
Other:
Other:

Duty Rate

3.7% ad valorem, but not less than the highest rate applicable to any component material

### REVENUE IMPACT OF PROPOSED SUSPENSION OF DUTY

The revenue that would be foregone by extension of the suspension is estimated to total approximately $4 million for the three-year period 1988 through 1990.

## H.R. 2274

*To supend for 3 years the duty on B-naphthol*

**BASF Corporation**
Chemicals Division

Robert G. Thoma
Director
Public and Government Affairs

**BASF**

June 11, 1987

Mr. Robert J. Leonard
Chief Counsel,
Committee on Ways and Means
U.S. House of Representatives
Longworth House Office Building
Room 1102
Washington D. C. 20515

Dear Mr. Leonard:

I am writing in support of H.R. 2274, legislation introduced by Congressman Vander Jagt to suspend for three years the duty on B-napthol.

BACKGROUND

Beta Napthol is a chemical used primarily for production of organic pigments, rubber processing chemicals and dye intermediates. The only U.S. producer, American Cyanamid, mothballed its plants at Willow Island, West Virginia in 1982. It reportedly was the largest producing facility in the world. As a result all present U.S. requirements are currently being supplied from import sources in Italy, West Germany and the Peoples Republic of China.

USES

Beta Napthol is used in manufacture of at least seven major organic pigments which represent close to half of the total 1985 volume of red and orange pigments produced in the United States. There is no direct substitute material available. The major pigment products include: Pigment Red 3,4,49:1, 49:2, 53 and Pigment Orange 5 and 46. The products produced are used in manufacture of printing inks, crayons, paints and coloring plastics. Estimated consumption for these uses was approximately 3.8 million lbs. in 1985. Internal BASF Market Research Studies estimate requirements for 1987 at 0.5 million lbs.

The major reported use for Beta Napthol is in chemicals used as antioxidants for synthetic rubber. Specific usage data is not available in published literature. There are several other significant uses for Beta Napthol, including azoic dyes, other dye intermediates, tanning agents, perfumes and pharmaceuticals.

COMPETITIVE SITUATION

The pigments produced in the United States compete primarily against imports of the same constitution. The import volume of the six major products was 188,000 lbs. in 1983 and is estimated to have risen in subsequent years. Twenty-one U.S. pigments manufactures produced at least one of these major products in 1985. Thus, continuation of the elimination of the duty would benefit the competitiveness of the entire U.S. organic pigments-producing industry.

Similarly, it would also serve to benefit domestic azoic dyes producers where over $9M of azoic dyes and their components were reported imported in 1983 in the USITC report.

SOURCES OF DATA

Data indicated is based on information available in the USITC reports, Chemical Economics Handbook (SRI International-1981), Encyclopedia of Chemical Producers (SRI International-1982), Encyclopedia of Chemical Technology (Kirk-Othmer-1981), OPD Buyers Directory of Chemical Marketing Reporter (1985 Edition) and Internal BASF Market Research Studies.

We respectfuly urge the Committee give favorable consideration to H.R. 2274

Sincerely,

R. G. Thoma

SYNTEX CORPORATION
3401 HILLVIEW AVENUE, P.O. BOX 10850
PALO ALTO, CALIFORNIA 94303

(415) 855-5710
TELEX 348423 SYNTEX PLA

LAWRENCE A. KIRKHAM, DIRECTOR
CORPORATE CUSTOMS

June 2, 1987
471-87

Mr. Robert J. Leonard, Chief Counsel
Committee on Ways & Means
U.S. House of Representatives
Room 1102
Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Leonard:

On behalf of Syntex Corporation, I am submitting these comments for the public record with reference to H.R. 2274, a bill to continue the duty suspension for an additional 3 years on beta-naphthol.

Inasfar as we can determine, there are no domestic manufacturers of beta-naphthol which, amongst other important industrial uses, has application as a pharmaceutical chemical intermediate.

In 1983, a 3 year suspension was granted by Congress in recognition of the potential commercial adversities faced by U.S. industry should they be unfairly penalized with a duty expense. Since then, conditions have not changed therefore we urge the Committee to endorse H.R. 2274.

Respectfully submitted,

Lawrence A. Kirkham

SUMMARY OF COMMENTS ON HR 2274

PURPOSE: To suspend for 3 years the duty on beta-naphthol

EFFECT: The bill will provide duty-free treatment for beta-naphthol for a three year period, such period commencing 15 days after enactment (or, alternatively, upon expiration of the previous suspension). The bill will accomplish its intended purpose by an amendment to the Tariff Schedules.

ANALYSIS:

- o bill provides continuation of a 3 year suspension approved in 1983 by the 98th Congress.
- o current suspension is in effect until 12/31/87 under TSUS 907.31.
- o conditions are unchanged, that is, there are no U.S. manufacturers of beta-naphthol.

RECOMMENDATION: Approve.

H.R. 2280

*To suspend for 3 years the duty on C-Amines*

**BASF Corporation**
Chemicals Division

**BASF**

Robert G. Thoma
Director
Public and Government Affairs

June 11, 1987

Mr. Robert J. Leonard
Chief Counsel,
Committee on Ways and Means
U.S. House of Representatives
Longworth House Office Building
Room 1102
Washington D. C. 20515

Dear Mr. Leonard:

I am writing in support of H.R. 2280, legislation introduced by Congressman Vander Jagt to suspend for three years the duty on C-Amines.

BACKGROUND

C-Amines are chemical intermediates used for the production of pigments. The major outlets are in Pigment Red 52:1, 52:2, 53, and 53:1, 200 and Pigment Orange 46. The last domestic production of C-Amines was in 1986 by the BASF Corporation's Chemicals Division. Prior to that American Cyanamid discontinued production in 1982. The only current sources are via imports from Korea and Japan. This material is used in approximately 20% of the red and orange pigments made in the U.S. The present amount of C-Amine used in the U.S. is estimated to be in the 3.0M lbs. per year range.

USES

The major uses of the pigments produced from C-Amine are for printing inks with small amounts used for the coloration of coatings and plastics. The import volume of these products was reported to be 155,000 lbs. in 1983. Approximately 17 domestic pigments producers would benefit from the duty elimination.

We respectfuly urge the Committee give favorable consideration to H.R. 2280.

Sincerely,

R. G. Thoma

RGT/MF
4/MF/12

100 Cherry Hill Road, Parsippany, New Jersey 07054 (201) 263-3400

## H.R. 2281

*To suspend the duty on kitchenware of transparent, nonglazed glass ceramics*

TESTIMONY BY

EDWARD T. FOGARTY

SENIOR VICE PRESIDENT AND GENERAL MANAGER

CONSUMER PRODUCTS DIVISION

CORNING GLASS WORKS

BEFORE

THE HOUSE WAYS AND MEANS SUBCOMMITTEE ON TRADE

JUNE 10, 1987

Mr. Chairman, I am submitting this testimony in response to your invitation for public comment issued on May 20 regarding the duty suspension bills that are pending before the Subcommittee. Specifically, my comments are directed toward H.R. 2281, a bill introduced by Congressman McGrath to temporarily suspend the duty on kitchenware of transparent, non-glazed, glass ceramics.

The purpose of H.R. 2281 is to suspend the duty for two years on imports of a product exclusively manufactured by Corning Glass Works in order to mitigate the adverse consequences on Corning and its customers of a tariff reclassification which will increase the duty on this product from 6.9 percent to 26 percent. Corning has been advised by the U.S. Customs Service that its VISIONS cookware product will be reclassified with the implementation of the Harmonized Tariff Code from the current TSUS 534.9700 at a 6.9 percent ad val. column 1 rate to the Harmonized Code 7013.10.00 at a 26 percent column 1 rate. This reclassification will impose a severe financial burden on Corning and its customers, requiring us to pay an additional $9.1 million in duties during 1988 and 1989 alone. The enactment of H.R. 2281 will temporarily relieve Corning and its customers of this additional financial burden for two years.

Corning believes that this duty suspension, if enacted, will have no adverse consequences on any domestic interests for two reasons:

(1) the description for the tariff category to which this suspension will apply is so narrow that only VISIONS can meet the definition; and

(2) there is no domestic manufacturer other than Corning that is manufacturing a product that is like or directly competitive with VISIONS.

Please let me elaborate on these two points to provide you greater assurance that this duty suspension will not adversely affect any U.S. manufacturer.

A reading of the tariff description in H.R. 2281 demonstrates best how extremely narrow this proposed duty suspension would be applied. H.R. 2281 includes the following product description:

> "Kitchenware of transparent, nonglazed glass ceramics, having a linear coefficient of expansion not exceeding $10 \times 10^{-7}$ per Kelvin within a temperature range of 0°C to 300°C (provided for in 534.97, part 2C, schedule 5)"

As you can see, this description is quite detailed in specifying the physical characteristics right down to the coefficient of expansion. Corning's technical specialists developed this definition in cooperation

with the U.S. International Trade Commission specifically to exclude the application of this duty suspension to a broader range of products.

Corning believes that there is no like or directly competitive product with VISIONS that is manufactured in the United States because of the distinct nature of VISIONS. It has product and use characteristics which distinguish it substantially from other types of cookware, such as top-of-the-range metal cooking ware and plastic microwave ware. Because of these characteristics, the demand for VISIONS is largely additional to the demand for other types of cookware. Marketing analyses confirm that VISIONS occupies a market that is separate and distinct from other types of cookware. While the demand for cookware generally has remained relatively flat in recent years, the demand for VISIONS has increased dramatically.

Because of the exclusive demand for VISIONS, Corning has made a major investment in the United States to manufacture the product. VISIONS was first developed and sold in France, but with rapid acceptance of the product in the U.S. market, Corning began producing it in its Martinsburg, West Virginia facility in 1985. We are nearly doubling our capacity to produce VISIONS in Martinsburg. We are also making additional investments in our Charleroi, Pennsylvania and our Greenville, Ohio facilities in connection with VISIONS. Despite this expansion of capacity in the United States, we will still have to import product from our facilities in France and Brazil to meet the growth in demand.

I hope that this explanation will convince you that the temporary duty suspension provided for in H.R. 2281 will not adversely affect any domestic interests. It is necessary to avoid the adverse effect on Corning and its customers of a tax increase brought about by a tariff reclassification.

A comparable provision to H.R. 2281 was included in the Senate trade bill (S.490) as reported out of the Senate Finance Committee. Because the provision was non-controversial in the Finance Committee, we expect that it will pass in the Senate. If it does, I urge the Ways and Means conferees to accept it in conference.

Thank you for giving me an opportunity to comment on this important legislation.

**H.R. 2289**

*To suspend for 3 years the duty on diamino imid sp*

BASF Corporation
Chemicals Division

BASF

Robert G. Thoma
Director
Public and Government Affairs

June 11, 1987

Mr. Robert J. Leonard
Chief Counsel,
Committee on Ways and Means
U.S. House of Representatives
Longworth House Office Building
Room 1102
Washington D. C. 20515

Dear Mr. Leonard:

I am writing in support of H.R. 2289, legislation introduced by Congressman Vander Jagt to suspend for three years the duty on diamino imid sp.

BACKGROUND

Diamino Imid SP is a chemical intermediate used for the production of disperse dyes which are utilized on textiles. There are no known domestic suppliers for this intermediate since the discontinuance of its production by BASF Wyandotte Corporation in 1985. All current imports come from Europe and are estimated to be 30,000 lbs. in 1986.

USES

Diamino Imid is utilized for the manufacture of disperse dyes in liquid and powder forms. These dyes are employed for the dyeing or printing on textile fabrics including acetate, triacetate, nylon, polyester and various blends of these fabrics. The major dye produced from this intermediate is Disperse Blue 60. Imports of this dye were indicated to be over 250K lbs. in 1983. Imports come from Europe and Japan.

COMPETITIVE SITUATION

A lower cost for this intermediate will permit an expansion of production in U.S. facilities and improve competitiveness against imports.

SOURCES OF DATA

The data indicated in this report is based on information available in the USITC Import and Production reports and Internal BASF Market Research Studies.

We respectfuly urge the Committee give favorable consideration to H.R. 2289.

Sincerely,

R. G. Thoma

RGT/MF

## H.R. 2297

*To extend the existing suspension of duty on m-Toluic acid*


HOWARD COBLE
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**Congress of the United States**
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June 5, 1987

The Honorable Sam M. Gibbons
Chairman
Subcommittee on Trade
Committee on Ways and Means
1102 Longworth HOB
Washington, D.C. 20515

Dear Mr. Chairman:

We are requesting your support of the inclusion of H.R. 2297 in the omnibus tariff bill which the Subcommittee on Trade will produce in the near future. H.R. 2297 extends the existing suspension of duty for meta-Toluic Acid (mTA).

Each of our districts has a chemical company which manufactures DEET, the active ingredient in mosquito repellents. In fact, one of these companies, Morflex Chemical of Greensboro, North Carolina, is the world's largest producer of DEET. mTA is important to both corporations because it is the primary raw material used to manufacture DEET.

Legislation creating the duty-free treatment of mTA was passed in the 98th Congress. As noted, H.R. 2297 extends this treatment, due to expire at the end of the year, through December 31, 1990. The reasons justifying the extension are as follows:

- Approximate U.S. demand for mTA should be 1.8 to 2.0 million pounds in 1987. However, the sole domestic manufacturer of the chemical can only produce 500,000 pounds annually. This creates a shortfall of 1.3 to 1.5 million pounds of mTA.

- Morflex Chemical is dependent upon the availability of a purer "grade" of mTA which it uses in a patented process to manufacture DEET. Domestically-produced mTA is unacceptable for this purpose.

- The import tariff for mTA is 1.7 cents per pound plus 17.9% ad valorem. The import tariff on the finished product, DEET, is 1.5 cents per pound plus 12.5% ad valorem. The resulting price differential in the finished product has led some U.S. firms to purchase DEET from Germany rather than from domestic producers.

In sum, extending the current suspension of duty for mTA will not harm the sole domestic manufacturer of the chemical, and it will more fairly permit American producers of DEET to compete against their foreign counterparts. We therefore urge your support of H.R. 2297.

Thank you for your time and consideration.

Sincerely,

Bill Frenzel

BILL FRENZEL
Member of Congress

Howard Coble

HOWARD COBLE
Member of Congress

HC/bsm

Morflex CHEMICAL COMPANY, INC.
2110 HIGH POINT ROAD, GREENSBORO, NORTH CAROLINA 27403 • 919-292-1781

June 4, 1987

Honorable Sam Gibbons, Chairman
Sub-Committee on Trade
Ways & Means Committee
1102 Longworth
House Office Building
Washington, D. C. 20515

Dear Congressman Gibbons:

I am writing you in reference to HR2297, a bill that would continue the duty free status of meta-Toluic acid. Morflex Chemical is a small employee owned business, including ninety employees who participate in our ESOP. Meta-Toluic acid is a key raw material in the production of DEET. DEET is the active ingredient in mosquito repellants. Morflex purchases meta-Toluic acid to produce DEET, which is one of our biggest products. I am asking for your support to extend the duty relief status on meta-Toluic acid for the following reasons:

(1) Domestic production capacity on meta-Toluic acid is about 500,000 pounds per year with a total U. S. need of about 1.8 million pounds per year. Thus the single domestic producer does not have adequate capacity for the U. S. needs.

(2) Morflex Chemical's process to produce DEET requires a high purity meta-Toluic acid and the domestic source does not make a product of sufficient purity to run in our process.

(3) Morflex Chemical can purchase meta-Toluic acid from sources in Canada, and Japan at sufficient quantity and quality to produce DEET that will meet the purity required by U. S. customers.

Thanks for your consideration in this matter.

Respectfully submitted,

Gary Taft

Gary F. Taft, President
MORFLEX CHEMICAL COMPANY,INC.

GFT/lr

## H.R. 2313

*To suspend until December 31, 1990, the duty on Teicoplanin*

## H.R. 2314

*To suspend until December 31, 1990, the duty on Ornithine*

COMMENTS FOR THE U.S. HOUSE OF REPRESENTATIVES

WAYS & MEANS COMMITTEE

ON H.R.2313 AND H.R.2314

SUSPENSION OF DUTY FOR TEICOPLANIN AND ORNITHINE

These comments are in support of H.R.2313 and H.R.2314 which provide for the duty suspension of two pharmaceutical active ingredients until December 31, 1990. A brief description of each product is as follows:

(1) Teicoplanin is an active ingredient that will be used in the manufacture of the ethical pharmaceutical product (prescription drug) that will be sold under the trademark Targocid. The product is an antibiotic that will be used to prevent and treat staph infections.

(2) Ornithine is an active ingredient that will be used in the manufacture of the ethical pharmaceutical product (prescription drug) that will be sold under the trademark Ornidyl. The product is for the treatment of Pneumocystis Carinii Pneumonia (a type of pneumonia that is the immediate cause of death for many AIDS victims) and Trypanosomiasis Cambiosi (West African Sleeping Sickness.)

Neither of these two products has as yet been approved by the U.S. Food and Drug Administration for sale in the United States. It is anticipated, however, that approval will be forthcoming in 1988 for ornithine and 1989 for teicoplanin. We seek the duty suspension at this time in anticipation of FDA approval.

The following comments apply equally to both of the above listed active ingredients:

(1) To the best of our knowledge, neither of these active ingredients is manufactured within the United States by Merrell Dow or any third party manufacturer.

(2) It is anticipated that there will be exports of the finished product containing ornithine, but it is too early to estimate projected volumes.

(3) The need to enact the duty suspension is essential to ensure that Merrell Dow can establish a product market in the U.S. for these new products.

(4) The European Economic Community, from which these active ingredients are imported, continues to allow duty suspension on probucol, which is produced exclusively by us in the U.S. and exported to Europe and the rest of the world.

(5) There is no opposition, to our knowledge, to the proposed passage of duty suspension legislation for these products.

In summary, we support H.R.2313 and H.R.2314 and urge its speedy enactment.

Philip G. Ellsworth
Director of Government & Industry
Policy Planning
Merrell Dow Pharmaceuticals Inc.
Cincinnati, Ohio 45242-9553
(513) 948-7803

Contact: Donna A. Akers
Washington, DC
(202) 429-3429

June 10, 1987

| Product | Country of Origin | Estimated Imports (1988-1990, Inclusive) | Estimated Revenues (1988-1990, Inclusive) |
|---|---|---|---|
| L-Ornithena | Japan | $ 1,440,000.00 | $ 53,000.00 |
| teicoplanin | Italy | $21,000,000.00 | $777,000.00 |



6/10/87

H.R. 2331

*To suspend until January 1, 1990, the duty on certain carbodiimides*

WRITTEN STATEMENT

ON BEHALF OF

MOBAY CORPORATION

Mobay Corporation, a member of the Bayer USA, Inc. group whose parent is Bayer AG of Leverkusen, West Germany, is headquartered in Pittsburgh, PA. Since its formation in the early 1950s, Mobay has become a diversified manufacturer of chemical intermediates and polymeric resins. We sell products to broad areas of U.S industry having need for polyurethane raw materials and polymers, agricultural chemicals, dyestuffs, pigments, plastic resins, coating ingredients, textile fibers and industrial chemicals.

Mobay imports some chemicals from its German parent for distribution or use in the U.S. when the size of the American market does not justify domestic production. Examples of such chemicals are the specific carbodiimide products covered in House of Representative Bill 2331 for which a temporary suspension of duty is requested. We market the four types of carbodiimides mentioned in H.R.2331 under the tradename STABAXOL.

The STABAXOL carbodiimides are used as specialty chemical stabilizers. They are very effective in protecting polyester materials against decay of physical properties due to hydrolysis. Without these carbodiimides, end-use products made from polyesters will suffer loss of physical strength when exposed to water, for example a humid atmosphere. The rate of physical property loss is a function of temperature, becoming faster as the temperature increases.

Polyesters are best described as polymeric organic esters made from organic acids and alcohols. They are available in a wide variety of chemical types and have many commercial uses. Some polyesters convert directly to an end use, while others serve as raw materials in chemical processes leading to end uses.

Polyesters are commonly used for making exterior and interior paints, various other coatings such as varnishes, adhesives, synthetic rubbers and plastics. In all of these uses, the carbodiimide serves the important role of protecting the finished material or part from chemical attack by the environment in which the material or part is used.

Each of the carbodiimide types covered in H.R.2331 has been developed to provide the most protection for specifically prescribed conditions of end-use. There are no U.S. producers of these carbodiimides, and we are not aware of other chemicals that serve the same purpose in end use.

Carbodiimides are currently imported as a chemical class under United States Tariff Schedule 405.5300 and carry a duty rate of 15.0% ad valorum. This very high duty places domestic users at a great disadvantage when competing in foreign markets for the products they have to sell. The high duty, when added to the cost of these chemical stabilizers, discourages use by those who stand to benefit most - the polyester producer - and ultimately the American consumer.

Suspending the duty on these specific carbodiimide chemicals will not harm American industry since there are no domestic producers of the chemicals. In addition, the temporary waiving of duty on these chemicals will enhance the global competitiveness of the U.S. companies using them, and will foster the creation and development of new technology and new products.

Mobay strongly supports H.R.2331 and urges passage of it by the Committee. If additional information is needed, please contact Paul Gemeinhardt by calling (412) 777-4875.

## H.R. 2336

*To amend the Tariff Act of 1930 regarding the customs administration of duty-free sales enterprises*

No statements submitted.

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## H.R. 2338

*To prohibit the imposition of excessive customs fees for foreign trade zone services, and for other purposes*

STATEMENT OF THE HONORABLE DON BONKER
BEFORE THE SUBCOMMITTEE ON TRADE

"To prohibit the imposition of excessive Customs fees
on Foreign Trade Zones"

June 12, 1987

Mr. Chairman, I appreciate the opportunity to present my statement to the subcommittee in support of my legislation, H.R. 2338, which would prohibit the imposition of excessive customs fees on Foreign Trade Zones.

In recent years, I have become extremely troubled by our increasing reliance on "user fees" to cover port and Customs costs. In particular, I am concerned about the competitive disadvantages these fees impose on Foreign Trade Zones.

In 1934, when FTZs were originally designed, they were to be secure areas within the United States considered outside the Customs territory of the United States. Merchandise could be stored, inspected, assembled and manufactured in these zones without prior payment of customs duties as a way to make U.S. products more competitive overseas, to retain U.S. manufacturing operations, and to stimulate greater export activity. Today, with our country facing a $170 billion trade deficit, the need to further encourage exports cannot be overstated.

Last Spring, as the subcommittee knows, I introduced legislation to prohibit the Customs Service from implementing any user fees on Foreign Trade Zones that would destroy their competitive benefits. The Customs Service had proposed a schedule of activation and operational fees in the Federal Register (51 FR 5040-5067, February 11, 1986) which went well beyond compensation for overtime, special audit inspection, and other legitimate commercial activities. It threatened to completely deny FTZs the competitive privileges they were designed to enjoy.

Since that time, Customs and the FTZ Association were able to work out a revised user fee schedule which was less burdensome and more fair. Nevertheless I remain deeply opposed in principle to any form of user fee and continue to be troubled by the impact of these fees on the competitiveness of zones.

Foreign Trade Zones are now facing a more serious financial burden as a result of the merchandise import fee assessed under the Budget Reconciliation Act of 1986, P.L. 99-509. Without a change in the present fee structure, FTZs would be required to pay twice for Customs operations, a situation that is both unfair and that would certainly eliminate any competitive advantage FTZs now enjoy.

A final decision on the actual structure for assessing Foreign Trade Zones the two fees is still under review by the Customs Service following their request for public comment earlier this year. Fortunately, the Budget Reconciliation Act granted the Customs Service discretion to reduce fees in cases similar to that confronting FTZs. I believe that the law and congressional intent should make clear to Customs that the temporary merchandise import user fee should supersede, not run concurrent to, the annual operation fees assessed FTZs. My understanding, however, is that the Customs Service is considering a different interpretation.

Last month, I introduced new legislation, H.R. 2338, because of my concern over how the Customs Service will implement the import user fee. My bill would guarantee the continued competitiveness of FTZs in two ways. First, to protect zones from double taxation, it would prohibit the Customs Service from implementing activation and operation fees during the period of time that the merchandise import user fee is in place. Secondly, it would protect zones in

the future by prohibitting the Customs Service from putting into place any fee structure which would offset the operational benefits, negate the tariff benefits, inhibit new zone activation, or lessen the competitive export advantages of Foreign Trade Zones.

Substituting the merchandise import fee for the activation and annual fees imposed on FTZs is a fair solution that will guarantee the continued competitiveness of zones while providing Customs with adequate fees to cover monitoring costs for FTZs. As the purpose of both fees is to raise revenues to cover the costs associated not only with the commercial operation of FTZs but also for all other Customs Service operational costs, the present situation is clearly discriminatory and unacceptable.

Congressional intent, as described in last year's Budget Reconciliation Act, appears clear that the temporary customs import user fee was designed to take precedence over other customs user fees during the period it is in effect. In the case of FTZs, this is both fair and equitable. The role of the U.S. Customs Service should be to facilitate our international trading system, not to impede it with excessive fees and inhibit our ability to compete effectively overseas.

Foreign Trade Zones provide companies doing business in the United States with the maximum possible flexibility in managing Customs expenses. In many instances, zones provide the only alternative to locating facilities outside the United States for minimizing Customs costs. Zones continue to be a positive force for United States economic development and competitiveness. In FY 1985, there were 1,409 firms using zones, employing 71,508 people. Their facilities received $30.8 billion in merchandise and exports amounted to $6.57 billion. The FTZ program has evolved from a few zones in major ports up to as late as the 1960s to over 140 general purpose zones and 100 subzones today.

Mr. Chairman, I urge the subcommittee, as it considers measures to include in the omnibus miscellaneous tariff and trade bill, to include H.R. 2338. The fee structures imposed by law and the Customs Service, threaten the continued viability of Foreign Trade Zones. It is my hope that the subcommittee will recognize the need for the clarifying language of H.R. 2338 to provide clear guidance to the Customs Service on how fees should be assessed to zones so that their competitive advantages will be maintained.

Statement of the National Association of Foreign-Trade Zones Concerning H.R. 2338 Prohibiting the Imposition of Excessive Customs Fees for Foreign Trade Zone Services

The National Association of Foreign-Trade Zones (NAFTZ) represents the majority of foreign-trade zones and subzones in the United States and is the national voice for the foreign-trade zones program. The NAFTZ wishes to advise the Subcommittee of its strong support for H.R. 2338, introduced by Rep. Don Bonker. This legislation would prohibit the Customs Service from imposing and collecting the activation and annual foreign-trade zone fee during the time when a Customs user fee, such as that authorized by the Omnibus Budget Reconciliation Act of 1986, is in effect. To allow imposition of both fees on foreign-trade zones, in the NAFTZ's view, is inequitable and amounts to "double taxation."

The NAFTZ's analysis of the statutory language and legislative history surrounding the user fee provisions leads to the conclusion that the user fee replaces the annual FTZ fee assessed by Customs for audit and inspection activities.

The Budget Reconciliation Act of 1986 added a merchandise user fee intended to cover the costs of the commercial operations of the Customs Service. The merchandise user fee replaces several types of fees and charges previously imposed by Customs, including the foreign-trade zone activation fee and annual fee imposed under 19 C.F.R. Part 146. The following states the reasons for that conclusion:

I. The Merchandise User Fee Replaces the Foreign-Trade Zone Annual Activation Fees

A. The merchandise user fee or import fee was added by Section 8101 of the Budget Reconciliaton Act of 1986, P.L. 99-509. Section 8101 imposes a user fee on formal Customs entries and withdrawals from warehouse for consumption of 0.22 percent, effective December 1, 1986. This will decrease to 0.17 percent, effective October 1, 1987.

B. Section 8101 also provides that the import fee displaces any charges for cargo inspection, clearance or service, in connection with "arrival or departure of any...cargo, in the United States."

C. The fee applies to formal entries, or withdrawals from warehouse, for consumption. Therefore, consumption entries of merchandise leaving foreign-trade zones and entering U.S. commerce would be subject to the fee. We estimate that the user fee will generate some $10 million in new revenue from zone withdrawals alone. This is far in excess of the approximately $1 million raised by Customs foreign-trade zone fees.

D. Section 8101(c) provides that no charges other than fees authorized by the Comprehensive Budget Reconciliation Act of 1985, as amended, Section 1303(a), may be collected for "any... customs service performed...in connection with the arrival or departure of...cargo, in the United States," "[n]otwithstanding any other provision of law."

E. The Customs fees currently charged for activation and annual operation of zones are designed to cover costs of Customs' commercial operations relating to foreign-trade zones (primarily audits and spot inspections). Audits and spot inspections of zone operations are in connection with "arrival or departure...of...cargo in the United States."

F. The foreign-trade zone annual and activation fees are not preserved by statutory language which provides for a reduction in the import fee by the Secretary of Treasury (Section 13031(b)(9)) in cases where services are provided at certain facilities and Customs costs are reimbursed under 31 U.S.C. Section 9701, or 19 U.S.C. Section 586.

1. The annual fee is not by 31 U.S.C. Section 9701 or 19 U.S.C. Section 586. This is confirmed by the Customs regulation imposing the annual fee, 19 C.F.R. Section 146.5, which asserts only 19 C.F.R. Section 81n as statutory authority.

2. The activation fee is imposed under 31 U.S.C. Section 9701, but is nevertheless connected with the arrival of cargo, and therefore may not be collected. If able to be collected, the amount of the activation fee should reduce the import user fee.

G. Therefore, Customs is precluded from assessing the foreign-trade zone activation fee or annual fee while the import user fee is in effect (December 1, 1986 - September 30, 1989).

II. This Result is Manifestly Fair and Equitable.

The replacement of the zone activation and annual fee is fair to zone operators and users, as well as the Customs Service, because:

A. Zone users will pay import user fees far in excess of the Customs activation and annual fees for foreign-trade zones;

B. The import user fee will cover costs of administration of foreign-trade zones, as well as other commercial operations; and

C. Zone users and operators will not be charged twice for the same Customs services.

III. This Result is Consistent with Congressional Intent.

A. Congress clearly intended to replace previously existing fees, connected with cargo processing with the import fee. The replacement even extends to Customs charges for overtime. Clearly, if extraordinary fees for overtime are replaced, fees covering merely normal commercial operations (such as Customs audits of foreign-trade zones) were also intended to be replaced; and

B. The import fee may be held to be consistent with the General Agreement on Tariffs and Trade only if it is limited to recovery of operational expenses of the Customs Service.

Customs's costs of audits and inspections of foreign-trade zones will not count toward those operational expenses unless the Customs foreign-trade zone fees are discontinued. Failure to count such expenses would make it less likely that the import fee could be sustained under GATT.

H.R. 2338 would clarify what the NAFTZ believes to be Congressional intent that the user fee in fact replaces the FTZ activation and annual fee. Accordingly, the NAFTZ strongly urges prompt enactment of this legislation.

Thank you for the opportunity to provide the NAFTZ views on this vital piece of legislation.

## H.R. 2339

*To extend duty-free treatment to 4-chloro-3-methylphenol (CAS No. 59-50-7)*

No statements submitted.

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## H.R. 2362

*To extend the temporary duty suspension on O-Benzyl-p-chlorophenol*

WRITTEN STATEMENT

ON BEHALF OF

MOBAY CORPORATION

Mobay Corporation, a member of the Bayer USA, Inc. group whose parent is Bayer AG of Leverkusen, West Germany, is headquartered in Pittsburgh, PA. Since its formation in the early 1950s, Mobay has become a diversified manufacturer of chemical intermediates and polymeric resins. We sell products to broad areas of U.S. industry having need for polyurethane raw materials and polymers, agricultural chemicals, dyestuffs, pigments, plastic resins, coating ingredients, textile fibers and industrial chemicals.

This statement concerns House of Representative Bills 2362 and 2424 that requests an extension of duty suspension on o-benzyl-p-chlorophenol. Mobay imports this chemical from its parent in Germany and markets the product in the United States under the tradename, Preventol BP.

o-Benzyl-p-chlorophenol is used as a broad spectrum biocide, as was the case when suspension of duty was enacted in 1984. It is commonly used as the active ingredient in cleaning solutions and disinfectants, and continues to be the only known biocide that effectively kills mycobacterium tuberculosis - the bacteria causing TB. It is widely used in the health industry, particularly by hospitals, emergency treatment centers and nursing homes, where control of this bacteria is so important to the maintenance of a hygienically clean environment.

Extending the duty suspension on o-benzyl-p-chlorophenol will not harm American industry since there are no domestic producers of the chemical. U.S. demand is satisfied entirely from abroad. In addition, an extension will continue to effect cost savings for the end user, and ultimately the one who stands to benefit most by its use; the ill, physically afflicted or elderly consumer, in the form of contained or lower health care costs.

Mobay strongly supports H.R.2362 and 2424 and urges passage of it by the Committee. If additional information is needed, please contact Paul Gemeinhardt by calling (412) 777-4875.

## H.R. 2380

*To extend the existing suspension of duty on graphite*

No statements submitted.

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## H.R. 2385

*To extend until January 1, 1991, the existing suspension of duty on diphenyl quanidine and di-o-tolyl quanidine*

No statements submitted.

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## H.R. 2386

*To extend until January 1, 1991, the existing suspension of duty on certain power-driven flat knitting machines and parts thereof*

No statements submitted.

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## H.R. 2387

*To extend for 3 years the suspension of duty on di-o-tolyl quanidine*

No statements submitted.

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## H.R. 2388

*To extend for 3 years the suspension of duty on m-Aminophenol*

No statements submitted.

## H.R. 2389

*To continue for a 3-year period the suspension of the duties on dicyclomine hydrochloride, mepenzolate bromide, desipramine hydrochloride, rifampin, terfenadine, clomiphene citrate, and lactulose*

COMMENTS FOR THE U.S. HOUSE OF REPRESENTATIVES

WAYS & MEANS COMMITTEE ON H.R.2389

SUSPENSION OF DUTY FOR DICYCLOMINE HYDROCHLORIDE,

MEPENZOLATE PROMIDE, DESIPRAMINE HYDROCHLORIDE, RIFAMPIN,

TERFENADINE, CLOMIPHENE CITRATE, AND LACTULOSE

These comments are in support of H.R.2389, which provides for a three-year extension of the current suspension of duties on seven pharmaceutical active ingredients. The active ingredients involved are:

(a) Clomiphene citrate. An active ingredient used in the manufacture of the ethical pharmaceutical product (prescription drug) sold under the trademark Clomid. The product is an orally-administered, non-steroidal agent which may induce ovulation in appropriately selected anovulatory women.

(b) Dicyclomine hydrochloride. An active ingredient used in the manufacture of the ethical pharmaceutical product (prescription drug) sold under the trademark Bentyl. The product is an antispasmodic used in the treatment of muscle spasms.

(c) Desipramine hydrochloride. An active ingredient used in the manufacture of the ethical pharmaceutical product (prescription drug) sold under the trademark Norpramin. The product is an antidepressant used in treating depression.

(d) Lactulose. An active ingredient used in the manufacture of the ethical pharmaceutical product (prescription drug) sold under the trademarks Cephulac and Chronulac. The product is a laxative.

(e) Mepenzolate bromide. An active ingredient used in the manufacture of the ethical pharmaceutical product (prescription drug) sold under the trademark Cantil. The product is used in the adjunctive therapy in the treatment of peptic ulcers.

(f) Rifampin. An active ingredient used in the manufacture of the ethical pharmaceutical product (prescription drug) sold under the trademarks Rifadin and Rifamate. The product is an antibiotic.

(g) Terfenadine. An active ingredient used in the manufacture of the ethical pharmaceutical product (prescription drug) sold under the trademark Seldane. The product is the only FDA-approved non-sedating antihistamine currently on the market.

Duty suspension was first afforded to these active ingredients in November, 1984. The duty suspension period covered by existing legislation expires on December 31, 1987.

The following comments apply equally to all of the above listed active ingredients:

(1) To the best of our knowledge, none of these active ingredients are manufactured within the United States by any third party manufacturer.

(2) Merrell Dow's competitive position vis-a-vis competing products from other U.S. companies has not changed since November, 1984 as a result of the duty suspension that was enacted at that time.

(3) The need to renew and continue the duty suspension is vital to ensure Merrell Dow's continued competitiveness.

(4) The European Economic Community, from which these active ingredients are imported, continues to allow duty suspension on probucal, which is produced exclusively by us in the U.S. and exported to Europe and the rest of the world.

(5) To our knowledge, there is no opposition to the proposed passage of duty suspension legislation for these products.

(6) Approximately $750,000 of finished products containing these active ingredients will be exported by Merrell Dow during the period covered by the suspension legislation.

In summary, we support H.R.2389 and urge its speedy enactment.

Philip G. Ellsworth
Director of Government & Industry
Policy Planning
Merrell Dow Pharmaceuticals Inc.
Cincinnati, Ohio 45242-9553
(513) 948-7803

Contact: Donna A. Akers
Washington, DC
(202) 429-3429

June 10, 1987

| Product | Country of Origin | Estimated Imports (1988-1990, Inclusive) | Estimated Revenues (1988-1990, Inclusive) |
|---|---|---|---|
| clomiphene citrate | France | $2,210,000.00 | $192,000.00 |
| dicyclomine hydrochloride | France | $1,344,000.00 | $110,000.00 |
| desipramine hydrochloride | France | $6,648,000.00 | $1,290,000.00 |
| lactulose | Netherlands | $8,960,000.00 | $331,000.00 |
| mepenzolate bromide | France | $400,000.00 | $45,000.00 |
| rifampin | Italy | $23,200,000.00 | $858,000.00 |
| terfenadine | Europe* | $37,500,000.00 | $5,062,000.00 |

*France, Ireland or Italy

6/10/87

## H.R. 2390

*To suspend temporarily the duty on certain chemicals*

No statements submitted.

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## H.R. 2409

*Relating to the tariff classification of certain leather belts*

STATEMENT ON BEHALF OF AMERICAN LEATHERGOODS MANUFACTURING ASSOCIATION REGARDING H.R. 2409, RELATING TO THE TARIFF CLASSIFICATION OF CERTAIN LEATHER BELTS

The American Leathergoods Manufacturing Association strongly supports the enactment of H.R. 2409, introduced by Congressman Robert Matsui. H.R. 2409 clarifies the tariff classification for leather belts, and parts thereof, designed to carry tools. These belts are worn by construction workers, carpenters, linemen, etc.

The domestic industry that produces these belts is located in California, Florida, Missouri and Oklahoma. It is a relatively small industry that now finds itself buffeted by growing imports. These imports have caused lost sales, price depression, and reduced employment in the industry. U.S. import statistics do not quantify the growing volume of imports because Customs practice places these competing imports in a basket TSUSA item, 791.9020 ("Other leather articles, other than footwear uppers,") and a wide range of other leather products are included in this basket item. The duty on imported leather belts designed to carry tools entered under TSUSA 791.9020 is zero.

The Association believes the belts its members produce have long been misclassified and should be classified as leather apparel belts in the Tariff Schedules. H.R. 2409 would correctly classify the belts in question under TSUS 791.60, leather apparel belts, and subject imported belts to a duty of 5.3 percent. Since leather apparel belts and belts designed to hold tools are both worn on the person, a headnote change that would classify the belts designed to hold tools in 791.60 is most logical. Statistical annotations added to TSUS 791.60 can easily differentiate between belts designed to hold tools and other belts.

The bill also reclassifies parts of belts into TSUS 791.60. These parts are mostly open leather pouches designed to hold tools such as hammers, screwdrivers, and pliers; and fasteners such as nails, screws, nuts, and bolts. Often these pouches are shipped separately from the belts. They are classified today in TSUSA 791.9020 and enter the United States duty free. The Association recommends for purposes of clarification that the bill be amended slightly to read "pouches and other parts thereof" in place of "and parts thereof."

The Association and its members urge the passage of H.R. 2409.

## H.R. 2411

*To continue until January 1, 1991, the existing suspension of duty on m-Aminophenol*

No statements submitted.

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## H.R. 2412

*To continue until January 1, 1991, the existing suspension of duty on Trichloro salicrylic acid*

No statements submitted.

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## H.R. 2413

*Extending the existing suspensions of duty on certain chemicals until January 1, 1991*

Testimony of Clarus M. Galloway, Materials Manager of Salsbury Laboratories, Inc., Charles City, Iowa

In support of House Bills H.R. 2413 to extend the suspension of U.S. Tariffs on chemical products sulfaquinoxaline, sulfanilamide, sulfaguanidine, sulfamethazine, sulfathiazole, acetylsulfaguanidine and Iron Dextran complex.

Subcommittee on Trade of the
Committee on Ways and Means
U.S. House of Representatives

June 5, 1987

Mr. Chairman, by way of introduction, Salsbury Laboratories, Inc., is a small to medium sized company, which has a long-term commitment to supplying products and services to the poultry and animal health industries. Quality products at competitive prices have enabled our company to earn the confidence of poultry and livestock raisers in their efforts to produce meat and eggs at a profit.

Sulfa drugs and Iron Dextran are of prime importance to the livestock and poultry industries and there is virtually no domestic production of these essential veterinary health products. (Note attached, "Sources of sulfa drug manufacture.") Also, due to environmental problems and costs associated with their manufacture, future domestic production of sulfa drugs is quite unlikely.

Salsbury is but one of many companies that favor passage of H.R. 2413 because we feel that they represent cost reductions of great benefit to American manufacturers producing and marketing sulfa products and Iron Dextran Complex to agriculture--within the framework of world supply and demand.

Acetylsulfaguanidine, like sulfaguanidine, is only an intermediate chemical (the precurser to sulfaguanidine) used in the manufacture of sulfamethazine. It, like sulfaguanidine, has no approved medicinal uses. Tariff suspension on acetylsulfaguanidine is needed primarily due to a world shortage of sulfaguanidine. Only Yugoslavia, Poland and China presently manufacture sulfaguanidine and Yugoslavia does not offer it for sale. They prefer to upgrade to sulfamethazine and demand a higher value added price. As an example, sulfamethazine prices, due to controlled availability, have increased over 35% in the past year and prices are still escalating.

The passage of this Bill will continue to make substantial savings possible for American poultry and livestock producers in their battle to realize a profit and ultimately savings for the consumer in better prices for meat and eggs. To reinstate these tariffs on animal health products that help place food on the consumer's table around the world, we feel, is unjustified.

Extension of the suspension of the tariffs is not a guarantee that prices for the sulfas will stay at or drop below their present levels. However, the extension of suspension of these tariffs will allow American manufacturers to purchase these sulfa products on the world market without adding the burden of high tariffs to the purchase price. The animal health business is highly competitive and for this reason we are confident that any duty savings will work to an advantage for both the farmer and the consumer.

We have been in contact with other suppliers of sulfa drugs and Iron Dextran to the poultry and animal health industry. Their support, as is ours, is based on the strong hope that these products can be supplied to the poultry and livestock industry from a more competitive position.

The extension of suspensions of these tariffs will continue to provide a direct pass-through savings on sulfaquinoxaline, sulfanilamide, sulfathiazole, sulfamethazine and Iron Dextran to the benefit of poultry and livestock producers and consumers.

In addition, the extension of suspension of tariffs on sulfaguanidine, acetylsulfaguanidine and sulfathiazole will continue to provide conversion opportunities for U.S. companies, increasing American employment vs. chemical manufacturers in other countries.

Acetylsulfaguanidine and sulfaguanidine will be converted to sulfamethazine and sodium sulfamethazine. Sulfathiazole is a widely used sulfa drug in the livestock and poultry industries. Sulfathiazole and its sodium salt are used in near equal volume in the industry. Presently, substantial quantities of sulfathiazole are converted to sodium sulfathiazole in the United States. The extension of suspension of sulfathiazole duties will continue to support the conversion by American industry at a competitive edge over sodium sulfathiazole converted in other countries.

In summary, it is our contention, along with the support of many other companies serving the veterinary health market, that passage of this Bill will allow American manufacturers to offer more economical veterinary health products to the agricultural industry. The subsequent result being lower priced end-products (meat & eggs) to the ultimate consumer. At the same time, passage of this Bill will continue to stimulate American manufacture of end-use sulfa drugs.

## SOURCES OF SULFA DRUG MANUFACTURE

### SULFAQUINOXALINE

Sulfaquinoxaline is produced only in England and Poland, but has in past years been produced in Italy and the U.S. Domestic manufacture (Merck & Co.) was discontinued approximately eight (8) years ago due to the make vs. buy economics. GSP treatment was granted to Yugoslavia in March of 1983, but it is doubtful that they have ever actually produced this product.

### SULFANILAMIDE

Sulfanilamide is produced in Romania, China, Poland, Yugoslavia (receives GSP treatment), Japan and small quantities in India. There has been no domestic manufacture within the past eight (8) to ten (10) years, due to U.S. producers inability to be competitive. Previous U.S. producers were Merck & Co. and Salsbury Laboratories.

SULFAGUANIDINE

Sulfaquanidine is produced in China, Poland and Yugoslavia (received GSP treatment from Yugoslavia). Yugoslavia, however, does not offer for sale as they prefer to upgrade to sulfamethazine. There has been no domestic material available for many years, again, for reason of inability to compete. There is however, considerable quantities of sulfaguanidine imported into the U.S. & converted to sulfamethazine and sodium sulfamethazine.

SULFAMETHAZINE

Sulfamethazine is available from many countries, most of which buy the sulfaguanidine & convert to sulfamethazine. Totally basic producers are limited to China, Poland and Yugoslavia (Yugoslavian material receive GSP treatment). Countries that only convert sulfaguanidine to sulfamethazine are Spain, Romania, India (small quantities), Denmark, Mexico, Egypt, Czechoslovakia and the U.S.

SULFATHIAZOLE

Sulfathiazole is produced mainly in Poland and China, with small quantities being produced in Czechoslovakia and Russia. Yugoslavia received GSP treatment and does have the capability to produce, but is not a consistent producer. Sulfathiazole has not been produced domestically since 1967, when Merck & Co. discontinued manufacture due to inability to compete. Several U.S. companies purchase sulfathiazole for conversion to sodium sulfathiazole.

## H.R 2414

*To extend for 3 years the existing suspension of duty on natural graphite*

No statements submitted.

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## H.R. 2418

*To continue until January 1, 1991, the existing suspension of duties on 4,4'Bis(a,a-dimethylbenzyl) diphenylamine*

STATEMENT OF

UNIROYAL CHEMICAL COMPANY, INC.

IN SUPPORT OF

H.R. 2418

TO EXTEND THE DUTY SUSPENSION ON
4,4'-Bis (a, a-DIMETHYLBENZYL) DIPHENYLAMINE

BARNES, RICHARDSON & COLBURN
475 Park Avenue South
New York, New York 10016

- and -

1819 H Street, N.W.
Washington, D.C. 20006

Andrew P. Vance
Matthew T. McGrath

June 12, 1987

This statement is filed in response to the invitation for comments of the Committee on Ways and Means, Subcommittee on Trade (Release No. 7, May 20, 1987), with respect certain miscellaneous tariff and trade bills. Uniroyal Chemical Company, Inc. supports the enactment of H.R. 2418, a bill which would continue until January 1, 1991 the existing suspension of duties on the chemical 4,4'-Bis (a, a-dimethylbenzyl) diphenylamine. This duty suspension, which was enacted in 1984, has benefited U.S. consumers of urethane products in the last three years. The extension of this duty suspension will continue to benefit Uniroyal and its customers, without imposing any adverse impact upon U.S. production or labor.

4,4'-Bis (a, a-dimethylbenzyl) diphenylamine is a chemical antioxidant used for stabilizing polymers in urethane polymers, elastomers, plastics and resins, and in lubricating oil. Included among the end uses of this chemical are polyurethane foam, rubber, lubricating oil, insulating cables, and plastics used in molded and sheet products such as plastic pipe or tubing. Uniroyal is, and has been, the only manufacturer of this chemical in the United States, and is also the only importer of the product.

Uniroyal has been importing 4,4'-Bis (a, a-dimethylbenzyl) diphenylamine since 1984 pursuant to the tariff suspension enacted by Congress in Section 171 of the Trade and Tariff Act of 1984, Pub. L. No. 98-573 (originally introduced in the 98th Congress as H.R. 1951 and S. 1266). These imports are currently provided for under TSUS item 907.06, which grants duty-free treatment until December 31, 1987. Upon expiration of the temporary duty suspension, the classification of this chemical would revert to TSUS item 404.88 dutiable at a rate of 1.1¢ per pound plus 18.8% ad valorem (4,4'-Bis (a, a-dimethylbenzyl) diphenylamine is provided for in the chemical appendix to the Tariff Schedules of the United States, at CAS No. 10081-67-1.)



81-911 O - 88 - 4

The present duty scheme was established in connection with the recent Tokyo Round negotiations of the General Agreement on Tariffs and Trade. Chemical articles provided for in the "basket category" of TSUS 404.88 were items which were manufactured by producers in the United States as of January 1, 1978, and consequently, were to be assessed at a higher rate of duty than for articles which were either (a) imported but not competitive with a domestically produced chemical, or (b) neither imported nor produced domestically at that time. As of the operative date of the negotiation, only Uniroyal produced 4,4'-Bis (a, a-dimethylbenzyl) diphenylamine in the United States, at its Naugatuck, Connecticut, plant.

In 1982, Uniroyal decided to enhance its productivity at the Naugatuck plant by converting the equipment used for this chemical to agricultural chemical lines, and shifting production of 4,4'-Bis (a, a-dimethylbenzyl) diphenylamine to the Uniroyal facility in Elmira, Ontario, which was then under-utilized. The same U.S. workers and facilities at the Naugatuck plant formerly engaged in production of 4,4'-Bis (a, a-dimethylbenzyl) diphenylamine became fully engaged in production of pesticides and other agricultural chemicals, and remain so employed at this time. The conversion improved Uniroyal Chemical's overall capacity utilization and profitability, while resulting in no net loss of American jobs or productive capacity.

However, Uniroyal then became the sole, albeit unintentional, "victim" of the relatively high tariff rate assigned to TSUS 404.88, and sought a suspension of the duty in 1983. Both the House Ways and Means Committee and the Senate Finance Committee reported favorably on the original tariff suspension legislation during the 98th Congress (H. Rep. No. 98-267, 98th Cong., 1st sess. 21 (1983) and S. Rep. No. 98-308, 98th Cong., 1st sess. 17 (1983), respectively.) The Committees found that the current tariff rate for the chemical "increases the manufacturing costs of the derivative products and raises the ultimate costs to domestic and foreign purchasers". Uniroyal testified before the Subcommittee on Trade of the House Ways and Means Committee (WM Series 98-17) and no opposition in any form was registered, nor did the Administration oppose the bill.

Uniroyal believes that the beneficial impact anticipated by the 98th Congress has been realized and should be continued. Imports of this chemical have increased (by volume) by 22% since the enactment of the tariff suspension, meeting modest increases in demand, while the unit price of the chemical has declined since 1984, due in part to the tariff suspension. The Naugatuck facility which previously produced the chemical is still fully utilized, and the continuation of this suspension will support the overall efficient utilization of Uniroyal's facilities.

For the foregoing reasons, the Uniroyal Chemical Company, Inc. respectfully urges the Subcommittee and the full Committee to report favorably on H.R. 2418, and extend until January 1, 1991 the existing suspension of duties under TSUS 907.06, for imports of 4,4'-Bis (a, a-dimethylbenzyl) diphenylamine.

Respectfully submitted,

UNIROYAL CHEMICAL COMPANY, INC.

By: Matthew T McGrath

BARNES, RICHARDSON & COLBURN
475 Park Avenue South
New York, New York 10016

- and -

1819 H Street, N.W.
Washington, D.C. 20006

Andrew P. Vance
Matthew T. McGrath
of Counsel

June 12, 1987

**H.R. 2419**

*To correct the tariff rate inversion on alloy iron and steel pipes and tubes*


TUBULAR PRODUCTS DIVISION
Allegheny Ludlum Corporation

WILLIAM G. BIEBER
GENERAL MANAGER

U.S. HIGHWAY 66 & LOWRY ROAD
P.O. BOX 948
CLAREMORE, OKLAHOMA 74018
918-341-8711


June 10, 1987

Robert J. Leonard
Chief Counsel
Committee on Ways and Means
Room 1102
Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Leonard:

Congressman Marty Russo has introduced legislation (H.R. 2419) that has been referred to the House Ways and Means Committee which would correct a tariff rate inversion that exists with respect to certain welded stainless steel pipes and tubes. The Ways and Means Committee has requested comments on this bill by June 12, 1987. The purpose of this letter is to express the support of Allegheny Ludlum Corporation for Representative Russo's initiative.

Under the current tariff schedules, the tariff rates on imports of stainless steel pipes and tubes are lower than the tariffs on stainless steel plate, sheet and strip--the products from which welded pipes and tubes are produced. This tariff inversion provides an artificial incentive for foreign producers to convert flat-rolled products to tubing offshore and thus benefit from the lower tariffs in effect on pipes and tubes. The consequence of the present tariff inversion on welded stainless steel pipe and tube is to encourage much higher levels of import penetration than if the tariff rates were on a par with those for flat-rolled products.

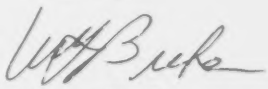
This problem of artificially-induced import penetration is exacerbated by natural economic incentives present in the specialty tubing industry. Stainless steel tubing has a relatively high unit value, and it is a naturally attractive market for foreign producers. The combination of natural economic factors with the artificial incentive of tariff inversion focuses particular attention on this segment of the steel industry, with disastrous results. In 1986, for example, import penetration for all specialty tubing stood at 48 percent of U.S. consumption.

The present tariff inversion not only has created an artificial incentive for imports, but also is inconsistent with the general treatment of finished commodities under the U.S. tariff schedules. In general, the tariff schedules are based on the principle that tariffs should increase as the degree of finishing on a commodity increases. Thus, for example, the present tariff schedules impose a higher tariff on the more highly-finished stainless steel sheet and strip than on the slabs and other semi-finished products used to produce the sheet and strip. The tariff treatment of stainless steel pipes and tubes, which in turn are more highly finished than the stainless steel plate, steel and strip from which they are manufactured, is an unwarranted departure from the normal operation of the tariff schedules.

The onslaught of imported pipe and tube has had a severe impact on our company. Allegheny Ludlum is one of the principal stainless steel pipe and tube producers in this country. In large part because of artifically-induced imports, our company has experienced substantial difficulties, including a marked decline in employment.

Representative Russo's bill would remedy the current tariff inversion problem by raising the tariff rates on stainless steel pipe and tube to the present tariff levels for flat-rolled products. We at Allegheny Ludlum believe that tariff inversion legislation, by removing the artificial incentive for foreign producers to concentrate on tubing exports, will go a long way in remedying the difficulties currently faced by our company and other pipe and tube producers. We urge the Ways and Committee to adopt Representative Russo's initiative.

Sincerely,



W. G. BIEBER

WGB/dl

Trent Tube
A Division of Crucible Materials Corp.

2188 Church Street
P.O. Box 77
East Troy, Wisconsin 53120
414/642-7321

William K. Grant
President

June 10, 1987

COMMITTEE ON
RECEIVED
JUN 11 1987
WAYS AND MEANS

Robert J. Leonard
Chief Counsel
Committee on Ways and Means
Room 1102
Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Leonard:

The purpose of this letter is to express the support of Trent Tube Division for legislation (H.R. 2419), introduced by Representative Marty Russo and referred to the House Ways and Means Committee, that would correct a tariff rate inversion that exists with respect to certain welded stainless steel pipes and tubes. The Ways and Means Committee has requested public comments on this legislation by Friday, June 12, 1987.

U.S. stainless steel pipe and tube producers have suffered for a number of years from an anomaly in the Tariff Schedules of the United States. As a general rule, the United States and its trading partners subscribe to the principle that higher value-added items should bear the highest duties. Indeed, all of our principal trading partners, including Japan, Korea, Canada and the European Community, have higher duty rates on pipe and tube products than on the flat-rolled products from which tubing is made. U.S. tariff rates, however, are inverted between stainless steel pipes and tubes and the stainless steel plate, sheet and strip products from which they are produced. This inversion in the U.S. Tariff Schedules occurred as a result of the rampant inflation in the United States during the 1970's and was inadvertently left uncorrected when the United States converted to new tariff schedules.

The inverted tariff is inequitable and provides an unfair competitive advantage to foreign producers of stainless steel pipe and tube products. The existence of the inverted tariff has contributed to the fact that foreign steel pipe and tube producers have gained a major foothold in the U.S. market. Indeed, the tariff inversion has provided an artificial incentive for foreign producers to convert flat-rolled products to tubing offshore and thus benefit from the lower tariffs in effect on pipes and tubes. The consequences have been disastrous. In 1986, for example, import penetration for all stainless steel pipes and tubes stood at 48% of U.S. consumption. The inverted tariff also has depressed pipe and tube prices in comparison to flat-rolled prices, squeezing profit margins and increasing losses for pipe and tube producers.

The onslaught of imported pipe and tube has had a severe impact on our company. Trent Tube is one of the principal stainless steel pipe and tube producers in this country. In large part because of imports induced by the inverted tariff, our company has experienced substantial difficulties, including a marked decline in employment.

It is not in our nation's interest to permit a decline in the stainless steel pipe and tube industry as a result of a tariff inversion. The pipe and tube segment of the domestic steel industry operates some of the most modern and efficient mills in the world. The industry has continually invested in its facilities both to lower production costs and to increase its capability to produce even more sophisticated products. Stainless steel pipes and tubes are among the most important basic industrial materials, and are an essential component in the infrastructure of this country. Maintaining domestic sources of stainless steel pipe and tube is also critical to America's national security. Stainless steel pipe and tube products are vital components of military and civilian powerplants, including nuclear reactors, as well as of military vehicles, tanks, warships and other sophisticated equipment.

Representative Russo's bill would remedy the current tariff inversion problem by raising the tariff rates on stainless steel pipe and tube to the present tariff levels for flat-rolled products. We at Trent Tube believe that tariff inversion legislation, by removing the artificial incentive for foreign producers to concentrate on tubing exports, will go a long way in remedying the difficulties currently faced by our company and other pipe and tube producers. We urge the Ways and Means Committee to adopt Representative Russo's initiative.

Sincerely,

CRUCIBLE MATERIALS CORPORATION
TRENT TUBE DIVISION

William K. Grant
President

/amp

UNION STAINLESS STEEL PIPE

DAMASCUS
TUBULAR PRODUCTS
Division of Sharon Steel
AN SVR COMPANY

DAMASCUS STAINLESS STEEL TUBING

June 10, 1987

Robert J. Leonard
Chief Counsel
Committee On Ways and Means
Room 1102
Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Leonard:

Congressman Marty Russo has introduced legislation (H.R. 2419) that has been referred to the House Ways and Means Committee which would correct a tariff rate inversion that exists with respect to welded stainless steel pipe and tubing. The Ways and Means Committee has requested comments on this bill by June 12, 1987. The purpose of this letter is to express the support of Damascus Tubular Products for Representative Russo's initiative.

Under the current tariff schedules, the tariff rates on imports of stainless steel pipe and tubing are lower than the tariffs on stainless steel plate, sheet and strip -- the products from which welded pipe and tubing are produced. This tariff inversion provides an artificial incentive for foreign producers to convert flat-rolled stainless steel into tubular products offshore and thus benefit from the lower tariffs in effect on pipes and tubes. The consequence of the present tariff inversion on welded stainless steel pipe and tubing is to encourage much higher levels of import penetration than if the tariff rates were on a par with those for flat-rolled products.

This problem of artificially-induced import penetration is exacerbated by natural economic incentives present in the stainless steel tubing industry. Stainless steel tubing, which is used in a wide variety of important applications such as vital components in military aircraft and in military and civilian power plants, has a relatively high unit value. As such, it is a naturally attractive market for foreign producers. The combination of natural economic factors with the artificial incentive of a tariff inversion focuses particular attention on this segment of the specialty steel industry, with disastrous results. In 1986, for example, import penetration for all stainless steel pipes and tubes stood at 48 percent of U.S. consumption.

The onslaught of imported tubular products has had a severe impact on our company. Damascus Tubular Products is one of the principal stainless steel pipe and tube producers in this country. In large part because of artificially-induced imports, our company has experienced substantial difficulties, including a marked decline in employment.

Representative Russo's bill would remedy the current tariff inversion problem by raising the tariff rates on stainless steel pipe and tubing to the present tariff levels for flat-rolled products. We at Damascus believe that tariff inversion legislation, by removing the artificial incentive for foreign producers to concentrate on tubular exports, will go a long way in remedying the difficulties currently faced by our company and other pipe and tube producers. We urge the Ways and Means Committee to adopt Representative Russo's initiative.

Sincerely,

DAMASCUS TUBULAR PRODUCTS

George F. Werner

George F. Werner
President

Edgar L. Ball
International Secretary

Lynn R. Williams
International President

James N. McGeehan
International Treasurer

George F. Becker
International Vice President
(Administration)

United Steelworkers of America

Leon Lynch
International Vice President
(Human Affairs)

815 16TH ST., N.W. [illegible]N, D.C. 20006

Suite 706

Phone: (202) 638-0829

June 12, 1987

Robert J. Leonard, Chief Counsel
Committee on Ways & Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Leonard:

Congressman Marty Russo has introduced legislation (H.R. 2419) that has been referred to the House Ways and Means Committee which would correct a tariff inversion that exists with respect to welded stainless steel pipe and tubing. The Ways and Means Committee has requested comments on this bill by June 12, 1987.

On May 1, 1987, the United Steelworkers of America submitted comments in support of similar legislation (H.R. 1336), also introduced by Congressman Russo, that would correct a tariff inversion that exists with respect to carbon steel pipe and tubing. For the reasons set forth in our May 1, 1987 letter, the United Steelworkers of America also supports Congressman Russo's proposal to correct the tariff inversion on stainless steel pipe and tubing. Accordingly, we urge the Ways and Means Committee to adopt H.R. 2419.

Sincerely,

John J. Sheehan
Legislative Director

JJS/tlm

PRINTED IN U.S.A.

H.R. 2420

*To provide for the temporary suspension of the duty on triethyleneglycol dichloride*

DESCRIPTION OF THE PRODUCT AND ITS USES

Rohm and Haas Company (the Company) is a multinational manufacturer of chemicals and plastics with principal offices in Philadelphia, Pennsylvania.

Triethyleneglycol dichloride (TGDC) is a synthetic organic chemical which the Company uses as a raw material in the manufacture of a proprietary chemical which, in turn, it uses as the principal chemical intermediate in the manufacture of a line of sodium octylphenoxypolyethoxyethyl sulfonate anionic surfactants.

The proprietary chemical intermediate is used by the Company only in the manufacture of sodium octylphenoxypolyethoxyethyl sulfonate. The Company does not offer the intermediate commercially. To our knowledge, the intermediate is not available commercially in the United States or elsewhere.

The finished surfactant products are used in a variety of applications including formulated metal cleaners, pharmaceuticals, cosmetics, and shampoos as well as emulsifying agents in emulsion polymerizations, and post-polymerization stabilizing agents for latices and other polymer emulsions.

OTHER END USES

To our knowledge, there are no commercial end uses for TGDC other than as a raw material in the manufacture of an intermediate used in the production of sodium octylphenoxypolyethoxyethyl sulfonates.

LOCATION OF PRODUCTION FACILITIES

TGDC is manufactured to order in Chuo-ku, Tokyo, Japan, by Nisso Shoji Co., Ltd. It has been imported into the United States by Rohm and Haas Company since 1984 for use in the manufacture of sodium octylphenoxypolyethoxyethyl sulfonate.

U.S. MANUFACTURERS

The Company manufactured TGDC in its Philadelphia, Pennsylvania plant from 1949 until 1975. From 1975 until 1985, the Company purchased TGDC from a domestic toll producer, but that production was discontinued in 1985. Today (1987), there are no U.S. manufacturers of TGDC. Therefore, it is neither necessary nor desirable to continue to maintain a tariff on this product to protect an American industry.

## COMPETITIVE PRODUCTS

There are no other chemical intermediates which can be used as a substitute for TGDC in the Company's process for the manufacture of sodium octylphenoxypolyethoxyethyl sulfonate. Modification of the Company's process to use a different principal chemical intermediate in the manufacture of sodium octylphenoxypolyethoxyethyl sulfonate would require a major additional investment, which is not warranted.

## IMPORTS OF TGDC

| | Lbs. Imported |
|---|---|
| 1984 | 373,000 |
| 1985 | 340,000 |
| 1986 | 846,000 |

## TARIFF CLASSIFICATION AND DUTY RATE (1987)

Item 428.47, TSUS - (Subpart D, part 2, schedule 4)

12.3% ad valorem

## REVENUE IMPACT OF PROPOSED SUSPENSION OF DUTY

The revenue that would be foregone as a result of the proposed suspension of the duty on TGDC is estimated to be approximately $650,000 for the three-year period 1988 through 1990.

## H.R. 2421

*To extend for 3 additional years the existing suspension of duty on certain forms of amiodarone*

No statements submitted.

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## H.R. 2422

*For the relief of Fabrimetrics, Inc.*

FABRIMETRICS INC.
ENGINEERED FABRICS

June 9, 1987

Mr. Robert J. Leonard
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
Room 1102 Longworth House Office Building
Washington, D.C. 20515

Dear Sirs,

Fabrimetrics, Inc. a California corporation, respectfully submits the attached statement of fact delineating the chronology of circumstances leading up to the introduction of H.R. 2422 to the Congress of the United States by the Honorable William M. Thomas, 20th District, California.

Fabrimetrics, Inc. requests the Congress permit it to import 334,863 pounds of polyethylene coated woven polyethylene fabric of strips, that are the product of the Republic of Korea and provided for in item 355.8210 of the Tariff Schedules of the United States without such material being counted against or subject to any quantitative restrictions established between the United States and the Republic of Korea.

Fabrimetrics, Inc. believes the attached statement will establish an equitable basis for its request, having exhausted all avenues within its power to resolve this matter.

Failure to obtain this request will result in financial disaster for Fabrimetrics, Inc., being the victim of circumstances surrounding the bilateral agreement on textiles between the United States and Republic of Korea.

We pray that the Congress will grant us such relief by passing H.R. 2422.

Yours Truly,

Terrence P. Hahn

Terrence P. Hahn
President

P.O. BOX 2180 • PASO ROBLES, CA 93447 • (805) 238-6702 TELEX 4930790 ITT WCTMC

June 9, 1987

Mr. Robert J. Leonard
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
Room 1102 Longworth House Office Building
Washington, D.C. 20515

Dear Sirs,

Fabrimetrics, Inc., a California corporation, respectfully requests that the Congress approve H.R. 2422 to grant relief from the disasterous effects on our very existence caused by the bilateral textile agreement between the Republic of Korea and the United States of America.

Fabrimetrics, Inc. had been continuously importing coated woven polyethylene fabrics, of strips, classified under TSUSA 355.8210 from Korea for over seven years, when suddenly on October 27, 1986 we were informed by our Korean supplier, Korea Tarpaulin Inc., that the Korean Ministry of Commerce and Industry instructed the Textile Export Association to stop issuing export licenses as of October 19, 1986.

This was done because the U.S. Government had advised the Korean Government that the exemption of TSUSA 355.8210 from Textile Category 627 granted in 1979 and automatically renewed annually each year, had now been eliminated with the recently concluded bilateral agreement between the two governments.

Several of my suppliers from Korea asked me to visit Mr. Cho, a Commercial Attache at the Korean Embassy, to discuss a plan of action on this matter. On November 2, 1986, I flew to Washington D.C. and met with Mr. Cho and Mr. Yu, both Commercial Attaches at the Korean Embassy.

The situation as the Korean Government perceived it, was that the negotiations between the two governments had never addressed the issue of the exemption on TSUSA 355.8210 from Textile Category 627, so that the exemption was automatically renewed as it was the past seven years. During my visit, I also visited all C.I.T.A. members to enlist their aid in resolving this matter. The general reception I received was rather cold, as many of the C.I.T.A. members advised that the political climate on imports was very negative. In a November 10, 1986 letter, Mr. Yu also made this contention to all C.I.T.A. members. It is my understanding that this issue was scheduled to be discussed at the next meeting of C.I.T.A. .

I again flew to Washington on December 2 to meet the Korean Commercial Attaches and their attorneys. At a meeting with Bill Houston, Chief Textile Negotiator at U.S.T.R., and Ron Levin, U.S. Commerce Dept., it was proposed that a temporary exemption be granted by the Commerce Department to permit the companies who had merchandise on order to obtain delivery of same until the matter of the exemption could be finally decided. On December 15, 1986, we sent a formal request to Bill Houston, Chairman of C.I.T.A., asking for a waiver of the visa requirement for the 370,787 pounds of merchandise Fabrimetrics, Inc. had on order prior to the halt on export license issuance (copy attached). Only one other firm, Shepard Products Company, submitted a similar request.

On December 26, 1986, Mr. Cho, the Commercial Attache at the Korean Embassy, advised Seoul that Ron Levin had agreed to a waiver of the visa requirements for Textile Category 627 on pending orders. As a result of this communication, my Korean supplier, together with others, shipped several containers of this material without visas. Our cargo was shipped 12/30/86 on the "ALBERNI DAWN V-62E" and arrived in Seattle on 01/22/87. U.S. Customs refused entry without a visa.

On February 2, 1987 we sent a telegram (copy attached) to Mr. Cho, Commercial Attache at the Korean Embassy, asking him to have the Korean Chief Textile negotiator, Mr. Lee, arrange a visa waiver on our cargo that was sitting in Seattle, drawing daily demurrage.

On February 10, 1987 we received a copy of a letter (copy attached) from Clayton Yeutter, Director of U.S.T.R., indicating that a waiver was being granted for 500,000 pounds of fabric that was over 148" or wider. This basically gave our competitor, Shepard Products Company, 500,000 pounds of material and none for Fabrimetrics, Inc.. In a subsequent conversation with the attorneys for the Korean Government, Mudge Rose Guthrie Alexander & Ferdon, I was told by Walter Lenahan that the waiver was part of a trade off between the two governments. The U.S. Government would waive quota on 500,000 pounds of material over 148" wide and the Korean Government would issue visas using their quota for over 300,000 pounds of material under 148" wide. Since only our competitor, Shepard Products Company, and Fabrimetrics, Inc. requested temporary exemptions for pending orders, Walter Lenahan advised that we could expect the visas to be issued from Korea.

I called Bill Houston at U.S.T.R. who reconfirmed that Mr. Lee, negotiator for the Korean Government, had agreed to issue visas for the pending orders of material under 148" wide. He explained that the 148" wide material imported by Shepard Products Company was not currently available in the U.S.. I told Bill Houston that he was mistaken because the 148" material being imported by Shepard Products Company was actually two widths of 76" wide material that were heat sealed together. I also advised him of at least five U.S. companies who could supply the same product. Bill Houston and I had repeated conversations about the product Shepard Products Company was importing and its availability in the U.S.. From my discussions with Bill Houston, it appeared that the Commerce Department had been misled into believing that the 148" wide material was a single width of material unavailable in the U.S..

On February 14, 1987 I visited Mr. Won Ho Lee, Director, Export Division 1, Ministry Trade & Industry for the Republic of Korea in Seoul, Korea and asked him when I could expect quota to be issued for the container of material in Seattle and the balance of the 370,787 pounds of pending orders. Since Mr. Lee spoke little English, I had to rely on a translation from my suppliers. Mr. Lee acknowledged that he had agreed to issue over 300,000 pounds of quota, in order to get a waiver for the 500,000 pounds of 148" material. He indicated that the group 1 quota had been previously allocated to Korean trading companies and he really didn't know at that time if Korea was over their group 1 limits or not since the retroactive inclusion of all shipments of merchandise under 355.8210 were going to be counted under Textile Category 627. He told me that he would try his best to help us.

I returned to the U.S. in early March, 1987 and tried to call Mr. Cho at the Korean Embassy to find out about my visa waiver. He never accepted or returned my call.

I called Bill Houston many times to ask for help in getting the Korean Government to issue the visas for my pending orders. He said he would meet with Mr. Cho soon to try to determine what the Korean Government was going to do.

On March 19, 1987 I met with Mr. D. Chang, sales director of my Korean supplier, Korea Tarpaulin, Inc.,in San Francisco. He told me that his company was forced to purchase quota from a Korean trading company at a cost of $18,000 for the 35,924 pounds of material in Seattle. He also advised me that Mr. W. Lee had arranged the purchase of the quota at a big discount, since the quota was currently being traded at $1.00 per pound. He indicated that the Korean Government had no intention of issuing the quotas for the balance of our order unless the U.S. would agree to a one time exemption for our merchandise. The retroactive inclusion of TSUSA 355.8210 into Category 627 had created a terrible burden on Korean textile manufacturers. Many companies who held quota were forced to suspend production and shut down operations because there was no quota now available in category 1. Other Korean trading companies who had shipped polyethylene coated woven polyethylene on speculation at the end of December were ordered to return the cargo to Korea rather than use the precious quota on cheap plastic materials.

On March 20, 1987 I called Bill Houston and advised him of the communication from Korea. He promised to talk to Mr. Cho at the Korean Embassy.

On March 23, 1987 Bill Houston and Ron Sorini of U.S.T.R. called me and informed me that only approximately 50,000 pounds of quota would be issued to Fabrimetrics, Inc. because we had not filled out proper requests for export recommendations in a timely manner. Suddenly the Korean Government materialized other companies with over 300,000 pounds of material on order who supposedly had received export recommendations prior to August, 1986. Our Purchase Order 1354 is dated April 21, 1986 and Purchase Orders 1392, 1396 and 1400 September, 1986. Our supplier is the largest manufacturer of this material in Korea and has done business with us since 1980. In fact we were their largest customer. I had no idea what an export recommendation was, so I contacted Seoul March 24, 1986.

I questioned my supplier per Bill Houston's request as to export recommendations, the exact amount paid for the quota and from whom the quota was purchased. My supplier told me that export recommendations are not accepted by the Korean Government until the cargo is virtually ready to ship. Since they also supplied the 500,000 pounds shipped to Shepard Products Company, I asked them when the export recommendations for Shepard's cargo were approved. They told me that the export recommendations were not approved until the end of January 1987, when the waiver for the 500,000 pounds was granted by the Commerce Department. They asked me to drop the $18,000 quota matter since my pushing to obtain quota was putting them in a difficult situation with the Korean Government. They said they had met with Mr. W. Lee, who had offered to give us a special favor and permit us to ship 71,848 pounds. They related that the overshipment of TSUSA 355.8210 in Textile Category 627 had created a severe limitation on the 1987 limit for group 1.

I relayed all of the information to Bill Houston and pointed out to him that when the possibility of a temporary waiver was announced in December, 1986, only two firms, Fabrimetrics, Inc. and Shepard Products Company had orders pending to ship. Now in late March, after the 300,000+ pounds of quota were going to have to be issued, the Korean Government suddenly found many other companies who had orders pending and "PROPER" paperwork, such that Fabrimetrics, Inc. couldn't get the balance of their cargo. I asked Bill Houston if he would press the issue on the date of issuance of export recommendations for Shepard's material and try to ascertain the reason all of these other companies didn't request waivers in December, 1986 if they actually had orders pending.

After several telephone conversations with Bill Houston, he finally said the Koreans had increased the quota to be issued to Fabrimetrics, Inc. to over 100,000 pounds and that he had done all he could. Supposedly the Korean Government presented a list of other companies that also had orders pending and approved export recommendations. Bill Houston refused to discuss the matter further, reiterating that he had done all that he could to help us. Since we had been unable to obtain even the quota that the Korean Government had promised Bill Houston, I asked Bill Houston to consider granting a one time waiver to enable Fabrimetrics, Inc. to import the balance of our contracts to fulfill our business liabilities to our customers. Since the importation of this merchandise is not prohibited and the Korean Government is able to issue a visa if they so desire, we have no defense against non-performance on our contracts. My customer, who is in direct competition with Shepard Products Company, is threatening litigation against Fabrimetrics, Inc. for non-performance of a contract and damages to his business for the difference in price he had to pay a Canadian supplier for over 2.5 million square yards of material we were unable to deliver. In the last 6 months, Fabrimetrics, Inc. has spent over $10,000 in legal fees, over $5,000 in travel and lost over $325,000 in business as a result of this game of ping-pong between the Koreans and our U.S.T.R.. Fabrimetrics, Inc. is not a large company and doesn't have the asset base to absorb these huge losses. All we are asking is that we be granted the same rights to import our pending orders that were given to our competition on the basis of misleading information presented to the Commerce Department. As recently as June 3, 1987 our supplier, Korea Tarpaulin Inc., advised us that the Korean Government refused to issue any visas for our orders, despite their promise to Bill Houston.

Bill Houston said that a waiver for our cargo will hurt the textile program, yet the facts of the matter are that both major domestic producers of coated woven polyethylene fabric were importing huge quantities of this material in 1986. The major exporting nation of this material to the U.S. is Canada, which is totally free from restraint. Since the U.S. manufacturers are unable to obtain polyethylene resin at the same price as Korea, Taiwan, Canada and other exporting nations, it is no wonder that the majority of this product is imported. According to the leading U.S. maker they pay 30%-60% more for resin than their foreign counterparts. To even call this product a textile is a contradiction to the rest of the world. In almost all other nations it is classified a plastic, since it is made wholly from plastic resin and contains no textile materials. Under the same premise adopted by U.S. Customs in classifying this material, we could weave strips of steel or wood into a gridwork and call it a textile.

Fabrimetrics, Inc. has been an honest business for over 12 years. We have never tried to cheat the U.S. Government, nor have we ever tried to avoid our responsibility when we were wrong. The current situation is threatening our very existence as a result of no wrong doing on our part. We began 1986 just as we had begun so many other years, only to have two unlikely, but formidable adversaries in the U.S. Trade Representative and the Korean Government draw us unwillingly into the line of fire.

We pray that the Congress of the United States will grant us the relief we so badly need to survive the crushing blows of these last six months. The matter is in your hands.

Respectfully,

Terrence P. Hahn

Terrence P. Hahn
President

attachments

TPH:th

December 10, 1986

Mr. William H. Houston, III
Chairman
Committee for the Implementation
of Textile Agreements
International Trade Administration
U.S. Department of Commerce
Washington, D.C. 20230

Dear Mr. Houston:

We have previously communicated with your office by letter dated November 10, 1986 to Mr. Ron Levin, regarding importations of woven fabric of polyethylene strips for Korea. The material is classified under tariff 355.8210 which is in Category 627. The purpose of this letter is to request a temporary exemption from the requirement of a visa until the issue can be settled. We have met and written to other members of CITA, including USTR.

We believe there was an oversight in the recently negotiated bilateral agreement on textiles with Korea. In the 1979 agreement, products falling under this tariff item were exempted and in 1982 were not included. It is included in the current agreement and we are unable to obtain visas from the Korean government. We have requested in our earlier letter removal of tariff 355.8210 from Category 627 and from the controls of the U.S. restraint program. We believe when all the facts are known and reviewed the exemption for item 355.8210 will be continued.

However, in the interim we are seriously disadvantaged by our inability to import. Therefore, we request a temporary exemption for importation of polyethylene coated woven polyethylene fabric.

We have currently outstanding nine purchase orders dating from April to October 1986, when the issue arose. Almost all of these shipments are overdue at this time. All of the open purchase orders are listed in an attachment to this letter. The total weight is 370,787 pounds valued at $236,430.00 CIF U.S. ports. Temporary exemption for these orders would allow us to continue operations while the question is resolved permanently.

We do request confidential treatment for the details of specific orders in the attachment. We appreciate your consideration of this request and will provide any additional information you need.

Sincerely,

Terry Hahn
President

TH:ev

cc: Ron Sorini, USTR

cc: Rob't Winters 4/21 xpress

| PO NUMBER | | DESCRIPTION | WEIGHT | VALUE | SCHEDULED SHIPMENT |
|---|---|---|---|---|---|
| PO 1354-15 | 132,000 LYD | 72" - 1000D - 5 x 4 - .03mm x 1 NATURAL | 35,924 # | $ 20,988.00 | 10/12/86 |
| PO 1354-16 | 132,000 LYD | 72" - 1000D - 5 x 4 - .03mm x 1 NATURAL | 35,924 | 20,988.00 | 10/19/86 |
| PO 1354-17 | 132,000 LYD | 72" - 1000D - 5 x 4 - .03mm x 1 NATURAL | 35,924 | 23,100.00 | 11/09/86 |
| PO 1354-18 | 132,000 LYD | 72" - 1000D - 5 x 4 - .03mm x 1 NATURAL | 35,924 | 23,100.00 | 11/23/86 |
| PO 1354-19 | 132,000 LYD | 72" - 1000D - 5 x 4 - .03mm x 1 NATURAL | 35,924 | 23,100.00 | 12/14/86 |
| PO 1354-20 | 132,000 LYD | 72" - 1000D - 5 x 4 - .03mm x 1 BLACK | 35,924 | 24,283.00 | 10/05/86 |
| PO 1354-21 | 132,000 LYD | 72" - 1000D - 5 x 4 - .03mm x 1 NATURAL | 35,924 | 23,100.00 | 12/14/86 |
| PO 1354-22 | 132,000 LYD | 72" - 1000D - 5 x 4 - .03mm x 1 NATURAL | 35,924 | 23,100.00 | 12/20/86 |
| PO 1354-23 | 132,000 LYD | 72" - 1000D - 5 x 4 - .03mm x 1 NATURAL | 35,924 | 23,100.00 | 12/20/86 |
| PO 1354-24 | 132,000 LYD | 72" - 1000D - 5 x 4 - .03mm x 1 NATURAL | 35,924 | 23,100.00 | 12/26/86 |
| PO 1392 | 10,000 LYD | 72" - 1000D - 5 x 5 - .03mm x 2 NATURAL | 3,447 | 2,624.00 | 12/05/86 |
| PO 1396 | 10,000 LYD | 72" - 1000D - 10 x 10 - .03mm x 2 NATURAL | 5,000 | 4,075.00 | 12/15/86 |
| PO 1400 | 2,200 LYD | 72" - 1000D - 10 x 10 - .03mm x 2 ORANGE | 1,100 | 627.00 | 01/15/87 |
| | 4,000 LYD | 72" - 1000D - 10 x 10 - .03mm x 2 ORANGE | 2,000 | 1,140.00 | 01/15/87 |
| TOTAL | | | 370,787 # | $236,430.00 | |

MAILGRAM SERVICE CENTER
MIDDLETOWN, VA. 22645
02AM

Western Union Mailgram

4-028867S033002 02/02/87 ICS IPMRNCZ CSP ONXB
1 8052386702 MGM TDRN PASO ROBLES CA 02-02 0407P EST

FABRIMETRICS INC
PO BOX 2180
PASO ROBLES CA 93447

THIS IS A CONFIRMATION COPY OF THE FOLLOWING MESSAGE:

8052386702 TDRN PASO ROBLES CA 113 02-02 0407P EST
PMS MR CHO, REPORT DELIVERY, DLR
EMBASSY OF THE REPUBLIC OF KOREA, DLR
2320 MASSACHUSETTS AVE NORTHWEST
WASHINGTON DC 20008
DEAR MR CHO,

I UNDERSTAND MR LEE OF YOUR NEGOTIATING TEAM IS IN WASHINGTON THIS WEEK. FABRIMETRICS INC. HAS 132,000 LINEAL YARDS 72 INCH-1000D-5X4-.04MM X 1 THAT WAS SHIPPED ON DECEMBER 30 1986 VIA THE ALBERNI DAWN V-62E BILL OF LADING NO. B/S-0122 WITHOUT A TEXTILE VISA FOR CATEGORY 627 BECAUSE OF THE CONFUSION CAUSED BY THE COMMERCE DEPARTMENT WHEN THEY TOLD YOU PENDING ORDERS OF MERCHANDISE COULD BE SHIPPED WITHOUT QUOTA.

PLEASE KINDLY ASK MR LEE TO ADDRESS THE MATTER IMMEDIATELY AND ISSUE A VISA WAIVER SO WE CAN TAKE DELIVERY OF THIS CARGO. THE CARGO HAS BEEN SITTING IN SEATTLE SINCE JANUARY 11 1987 AND IS NOW DRAWING DEMURRAGE.

YOURS TRULY,
TERRY HAHN, PRESIDENT
FABRIMETRICS INC PO BOX 2180 PASO ROBLES CA 93447
CC WALTER LENAHAN, IBERC

16:05 EST

MGMCOMP

TO REPLY BY MAILGRAM MESSAGE, SEE REVERSE SIDE FOR WESTERN UNION'S TOLL - FREE PHONE NUMBERS

PAUL SIMON
ILLINOIS

FEB 16 1987

COMMITTEES:
LABOR AND HUMAN RESOURCES
JUDICIARY
RULES AND ADMINISTRATION

United States Senate
WASHINGTON, DC 20510

February 10, 1987

Terry Hahn, President
Fabrimetrics, Inc.
P.O. Box 2180
Paso Robles, CA 93447

Dear Mr. Hahn:

I have received the enclosed reply from Mr. Clayton Yeutter, the United States Trade Representative, concerning the importation from Korea of coated woven polyethelene strips. (TSUSA 355.8210)

If there is anything else that I can do for you, please do not hesitate to contact me.

My best wishes.

Cordially,

Paul Simon
United States Senator

PS/ece

230 S. Dearborn
Kluczynski Bldg., 38th Floor
Chicago, IL 60604
312/353-4952

3 West Old Capitol Plaza
Suite 1
Springfield, IL 62701
217/492-4960

8787 State St.
Suite 212
East St. Louis, IL 62203
618/398-7707

250 West Cherry
Room 115-B
Carbondale, IL 62901
618/457-3653

THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON
20506

February 5, 1987

The Honorable Paul Simon
United States Senate
Washington, D.C. 20510

Dear Paul:

Thank you for your letter of January 20, 1987 concerning imports from Korea of coated polyethelene woven fabric strips.

I am pleased to inform you that the United States and Korea have reached a solution to this problem. The United States has agreed to grant a waiver from quota for up to 500,000 pounds of this product, provided that the fabric strips are 148" and wider, and are imported into the U.S. by April 1, 1987. The Korean Government has agreed to issue export visas for products meeting these requirements.

This solution was reached in recognition of the potential hardships faced by American importers and to give them time to make arrangements for additional suppliers of the material. After careful research, we understand that domestic producers can supply fabric strips less than 148", and will soon have ample capacity for the wider strips.

Sincerely,

Clayton Yeutter

CY:ccb

WILLIAM M. THOMAS
20TH DISTRICT, CALIFORNIA

COMMITTEES:
WAYS AND MEANS
HOUSE ADMINISTRATION
BUDGET

2402 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-2915

Congress of the United States
House of Representatives
Washington, DC 20515

ADMINISTRATIVE ASSISTANT
CATHERINE M. ABERNATHY

DISTRICT OFFICES:
1830 TRUXTUN AVENUE, #200
BAKERSFIELD, CA 93301
(805) 327-3611

858 W. JACKMAN STREET, #115
LANCASTER, CA 93534
(805) 948-2634

1390 PRICE STREET, #203
PISMO BEACH, CA 93449
(805) 773-2533

June 12, 1987

Mr. Robert J. Leonard
Chief Counsel
Committee on Ways and Means
1102 LHOB
Washington, D.C. 20515

Dear Mr. Leonard:

The attached statement is submitted in support of the passage of H.R. 2422.

H.R. 2422 would allow Fabrimetrics, Inc., a California company, to import 334,863 pounds of polyethylene material that was ordered in 1986. The company has been unable to obtain export visas from the Republic of Korea for the material because of the bilateral textile agreement concluded between the U.S. and Korea in 1986. Passage of the bill would allow the company to fulfill its obligations and avoid potential liability stemming from its contracts to supply that material to the firm's U.S. customers.

I may be contacted at the address shown above.

Best regards,

Bill

WILLIAM M. THOMAS
Member of Congress

WMT/rsw

Statement on H.R. 2422
THE HON. WILLIAM M. THOMAS
June 12, 1987

I urge the adoption of H.R. 2422 in order to provide Fabrimetrics, Inc., a California company, with the right to import 334,863 pounds of plastic material from the Republic of Korea. An unfortunate restriction on the company's ability to conduct its business has arisen as a result of the 1986 U.S.-Korea bilateral textiles agreement. The one-time exemption from the agreement's quotas will permit Fabrimetrics to import materials it has under order, avoiding legal difficulties resulting from contracts it has here in the United States.

The material to be imported under the bill is a coated, woven polyethylene sheet material classified under TSUS number 355.8210. The material is a plastic sheeting used in agriculture as cotton module covers and irrigation dam material and as tarpaulins.

Fabrimetrics has been dealing with this material for over a decade and has been importing it from a Korean manufacturer. Previous U.S.-Korea agreements have not controlled this material.

Fabrimetrics ordered most of its material in April 1986 as negotiations between the U.S. and Korea were beginning. The company was not aware that its material would be subject to restraints that would ultimately be developed. The agreement itself, although negotiations were concluded on August 3, 1986, was not formalized with an exchange of notes until the following November.

I am informed that neither the company nor its Korean supplier became aware that the 1985 agreement covered this fabric until the Korean government stopped issuing exit visas for it on October 19, 1987. By that time, Fabrimetrics had already ordered 370,787 pounds of the material for delivery in late 1986 and early 1987.

After learning that this fabric was controlled by the agreement, Fabrimetrics and another firm, Shepard Products Company, sought exemptions for material the companies had on order. Having been informed by Korean sources that exports would be permitted, Fabrimetrics did ship 35,924 pounds of material. The company then discovered that export visas had not been issued and its supplier had to purchase quota, at a cost of $18,000, in order to have the material enter the United States.

At the same time, additional talks between our governments continued and earlier this year, the U.S. government reached an agreement with Korea that allowed Shepard Products to import 500,000 pounds of material. Under the agreement, Fabrimetrics was supposed to be allowed to import 300,000 pounds of material. Although Fabrimetrics' president believes several U.S. firms could have supplied Shepard Products' material when the exemption was granted, Shepard Products was given an exemption on grounds that its material could not be obtained here.

Subsequent to that agreement, the Republic of Korea argued that Fabrimetrics had not properly registered its orders for export. The issue had not been raised during the talks. Korea ultimately offered to allow Fabrimetrics to import 102,235 pounds of material, but the company has been unable to learn how to obtain export visas for that small amount of product. According to the firm's president, the company has recently been informed by its supplier that quota continues to be unobtainable and that quota has already been given to other firms for export of high-valued materials.

The only means of resolving the company's dilemma now appears to be Congressional assistance in the form of a one-time exemption to cover the balance of the fabric Fabrimetrics has on order. Fabrimetrics' president has informed me that the company is now being threatened with lawsuits by its customers because the company is unable to deliver the material it has ordered. Fabrimetrics' customers are competitors of Shepard Products Company, which has already obtained an exemption. The company has lost over $325,000 in sales and incurred approximately $15,000 in expenses during its efforts to secure export visas. In light of the exemption granted Shepard Products, it seems only fair that Fabrimetrics be given a one-time exemption to cover its material so the company can fulfill its obligations.

H.R. 2424

*To extend the temporary duty suspension on O-Benzyl-p-chlorophenol*

See Mobay Corp. under H.R. 2362.

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H.R. 2425

*To amend the Tariff Schedules of the United States to make the temporary changes in tariff treatment on certain disposable surgical gowns and drapes permanent*

AMERICAN TEXTILE MANUFACTURERS INSTITUTE, INC.
1101 CONNECTICUT AVENUE, N.W., SUITE 300, WASHINGTON, D.C. 20036
TWX: 710-822-9489
TEL: 202/862-0500

May 22, 1987

The Honorable Sam M. Gibbons
Chairman
Subcommittee on Trade
Committee on Ways and Means
1136 Longworth House Office Building
Washington, DC 20515

Dear Mr. Chairman:

This is in response to press release 7, dated May 20, 1987, requesting comment on certain miscellaneous tariff and trade bills.

The American Textile Manufacturers Institute, Inc., whose members account for over 85 per cent of the domestic production of textile mill products, wishes to register objection to H. R. 2425, proposing to make permanent the temporary changes in tariff treatment of certain disposable surgical gowns and drapes.

This legislation is clearly harmful to U. S. textile producers. The products described are commercially available from domestic suppliers, and extension of the current favorable tariff treatment for these surgical drapes and gowns would inflict further harm to this segment of our industry. We are particularly opposed to making the tariff reduction permanent and believe that domestic production of these products precludes such treatment.

For these reasons, we are opposed to H. R. 2425.

Sincerely,

Carlos Moore

Carlos Moore
Executive Vice President

Cm/alg

CRAFTED WITH PRIDE IN USA

STATEMENT OF HERCULES INCORPORATED BEFORE THE
WAYS AND MEANS COMMITTEE, U.S. HOUSE OF REPRESENTATIVES
ON H.R. 2425, TO PERMANENTLY REDUCE THE DUTY
ON CERTAIN DISPOSABLE SURGICAL GOWNS AND DRAPES,
JUNE 12, 1987.

Mr. Chairman, it is a privilege to have the opportunity to present this statement to you and the members of the Subcommittee on the bill H.R. 2425, which if enacted, would permanently reduce the duty on certain disposable surgical gowns and drapes.

We feel this legislation is equitable and appropriate. If this legislation is not enacted, when the current temporary provision expires, the tariff schedule would apply a duty rate of 5.6 percent ad valorem to gowns and drapes made of a combination of paper and polyester, while again, applying a higher duty rate of 17 percent ad valorem to gowns and 9 percent ad valorem to drapes made of bonded-fiber fabric. More specifically, the bonded-fiber fabric gowns are 100 percent polypropylene. The paper gowns, classified as reinforced paper, thus eligible for the lower rate, are actually about 45 percent polyester and 55 percent wood pulp. Since the chief component of value of both is man-made fiber, no rationale exists for one fabric to enjoy such a favorable rate of duty.

Further, this legislation is still narrowly drawn so that it applies only to disposable surgical drapes and sterile gowns of bonded-fiber fabric. The tariff equalization would not apply to industrial protective apparel, lab coats or contamination gowns.

Additionally, we are advised that the 100 percent polypropylene product has desirable medical benefits over the reinforced paper product. For this reason, if for no other - the better health care of our citizens - the two products ought to be able to compete fairly. As you know, health care costs are continually on the rise and when the opportunity to reduce costs presents itself we hope the House and Senate will continue to respond favorably. In addition, during the period that the temporary provision has been in effect providing duty equity for these disposable surgical gowns and drapes, there has been no indication of injury to other parties because of this legislation. Consequently, it would seem appropriate to allow these similar products with the same end-use to compete fairly in the market place by continuing this duty equalization legislation.

Mr. Chairman, we appreciate the opportunity to present this information to you and we know the Subcommittee will seriously consider our view.

Written Comments of
Health Care Sector,
Kimberly-Clark Corporation
to the
Subcommittee on Trade
of the
House Committee on Ways and Means
on
H.R. 2425
June 12, 1987

## I. INTRODUCTION

The following written comments are filed on behalf of the Health Care Sector of Kimberly-Clark Corporation (hereafter, "Kimberly-Clark" or the "Corporation") in support of H.R. 2425, a bill to make the temporary changes in tariff treatment on certain disposable surgical gowns and drapes permanent.

Kimberly-Clark Corporation, its consolidated subsidiaries and equity companies are engaged in a worldwide business employing advanced technologies in absorbency, fiber-forming and other fields. The Corporation manufactures and markets a wide range of products (most of which are made from natural and synthetic fibers) for personal care, health care, and other uses in the home, business and industry.

Kimberly-Clark products and services include household and institutional tissues; feminine, infant and incontinence care products; industrial and commercial wipers; hospital and home health care products; and related products. These products are sold under a variety of brand names such as Kleenex,® Kotex,® New Freedom,® Huggies,® Delsey,® Hi-Dri,® Depend,® Kimwipes® and Kimguard.®

This class includes nonwoven materials made by a process of bonding or interlocking fibers, yarns or filaments. These materials have characteristics similar to some woven textiles. Nonwoven fabrics are used in Kimberly-Clark products for infant care, feminine care, home and professional health care, and for industrial wiping markets. These fabrics also are sold as a base material to other converters.

## II. PURPOSE OF H.R. 2425

The rationale for seeking to make permanent the temporary reduction in duties for disposable surgical drapes and sterile gowns of bonded-fiber fabric is to continue the remedy of a significant tariff inequity which would again exist if this legislation is not favorably acted upon.

Disposable hospital gowns and drapes predominantly of paper, or of combinations of paper and man-made fibers, are classified in Tariff Schedules of the United States ("TSUS") item 256.8780 with an applicable duty rate of 5.6% ad valorem. Disposable surgical drapes and sterile gowns predominantly of bonded-fiber fabric (man-made fiber) are classified in TSUS items 389.6270 (formerly 389.6265), 381.9600 (formerly 379.9601) and 384.9305 (formerly 383.9205); without this legislation, these same end-use products

would be subject to duty rates substantially higher. For example, 389.6270 (drapes) is assessed a duty rate of 9% ad valorem, and the duty rate applied to 381.9600 and 384.9305 (gowns) is 17% ad valorem.

H.R. 2425 permanently reduces the rate of duty on disposable surgical drapes and sterile gowns comprised of bonded-fiber fabric to a level of tariff parity with other disposable surgical drapes and sterile gowns comprised of polyester, nylon, polyethylene, polypropylene, and wood pulp combinations. The majority of producers of these disposable products or base sheet materials currently pay 5.6% on value added, while Kimberly-Clark Corporation, without this duty parity, would have to pay duties up to three times this amount.

## III. DESCRIPTION OF H.R. 2425

Since the original introduction of the temporary tariff equalization measure nearly six years ago, but prior to its enactment in 1984, a number of changes were made in the language to significantly narrow its scope. This narrower language is still contained in H.R. 2425 which includes only disposable surgical drapes of bonded-fiber fabric contained in TSUS items 381.9600 (men's or boys') and 384.9305 (women's and girls'). The general apparel categories for such items as coats, shirts, suits, trousers, and slacks, of man-made fibers [381.8706 (men's) and 384.8002 (women's)] are not included in H.R. 2425.

H.R. 2425 provides for a permanent duty reduction to 5.6% ad valorem. The five-year term of the current temporary provision has provided time for Kimberly-Clark to assess the success and effectiveness of our major capital investment for the manufacture of the polypropylene base sheet. In addition, this trial period has demonstrated that the reduction has had a favorable effect on U.S. industry and jobs by expanding the demand for U.S. component fabric production facilities, raw material suppliers and other supporting operations without disrupting the drape and gown markets.

The Multilateral Trade Negotiation ("MTN") final staged tariff reduction occurred January 1, 1987 (See Attachment A). In 1988, the 5.6% tariff rate applicable to our products would automatically increase if Congress decides against continuing this duty parity. The 1987 final MTN implementation rates of 9% and 17% for surgical drapes and sterile gowns, respectively, would then be applicable to Kimberly-Clark's products and any others made of similar fabric. Thus, even with the present implementation of all MTN staged reductions, Kimberly-Clark would still pay for its disposable polypropylene surgical drapes and sterile gowns, duties equal to 160% and 300%, respectively, of the duties paid by medical converters of polyester blended fabrics manufactured by others.

## IV. DESCRIPTION OF THE U.S. CUSTOMS RULING ENABLING DISPOSABLE HOSPITAL PRODUCTS, WHOSE COMPONENT OF CHIEF VALUE IS MAN-MADE FIBER, TO ENTER THE U.S. AT 5.6% AD VAL. AS REINFORCED PAPER

Although, as discussed above, Kimberly-Clark's products are used identically to those of its competitors, Kimberly-Clark found it necessary to seek a legislative solution because it is unable to fit within existing Customs Service rulings. The Customs Service has issued two rulings which classify a competitive fabric as "reinforced paper," although the "reinforced paper's " component of chief value is polyester. The effect of these rulings is to treat comparable competitive products with identical end-uses very differently.

These rulings, numbered 027919 (July 6, 1973) and 055364, (February 19, 1980), classify disposable operating room gowns consisting of up to 55% polyester and 45% wood pulp as "reinforced paper," importable at 5.6% ad valorem. The first ruling indicated that when a layer of tissue paper produced from wood pulp on a standard paper-making machine and a layer of polyester mat are entangled by pressure from sprayed water, the resulting base sheet is reinforced paper. Interestingly enough, laboratory testing indicates that a layer of finished paper, manufactured on a paper-making machine, is not essential to the production of this particular product. Pulp fibers have been found to be substitutable. Thus, it appears that one of the key reasons for including a sheet of paper in the process is to be able to state that a paper-making machine was used in the process, ignoring the fact that the majority of the process involves textile machinery.

The second ruling was a response to a request for internal advice on the first ruling from the District Director of Customs in El Paso, Texas. The District Director questioned the logic of the first ruling and indicated that the component of chief value was polyester, thus classifying the product as man-made fiber apparel. He also indicated that only the initial paper sheet, and not the entire finished base sheet, was made on a conventional paper-making machine. Customs responded that the component of chief value rule was irrelevant because reinforced paper is an "eo nomine" (describing a product by name) classification provision. Secondly, Customs responded that "[i]t is sufficient that the paper used in producing the reinforced paper first was made on a standard paper-making machine without modifications" for the entire finished base sheet to be classified as reinforced paper.

Thus, in effect, Customs has indicated that the fact that the component of chief value of fabric is polyester is irrelevant, and that so long as the initial base sheet is made on a paper-making machine, the result of blending the base sheet with any amount of man-made fiber is reinforced paper, not a textile, and carries a duty rate of 5.6% ad valorem. This ruling ignores the fact that the component of chief value is polyester and that, in fact, the product is a textile combined with paper rather than a paper reinforced with textile or "reinforced paper."

Our purpose was and is not to find error with the Customs Service rulings but, rather, to show the need for this legislation by

pointing out that, as a result of these rulings, one type of fabric is assessed a tariff substantially lower than that of an identical end-use competing product. Thus, merely because our fabric does not contain a minimal amount of paper made on a paper-making machine, this ruling places our Health Care Sector at a very substantial disadvantage. The component of chief value for both fabrics is man-made fiber and the production process, excluding manufacture of the paper, is a textile process for both. The finished products have the same end-uses and are sold to the same markets.

Kimberly-Clark's 100% polypropylene base sheet has demonstrated such desirable characteristics as low lint, effective bacterial barrier properties, good fabric breathability and drapability, and minimal likelihood of supporting flame. Our polypropylene base sheet is a desirable product advancement that contributes to the well-being of both the patient and the surgical team and to hospital cost containment by helping to reduce infection and reinfection. Illogical application of duty rates should not be used to prevent this product from continuing to reach hospitals throughout the U.S. at a price comparable to other disposable surgical drapes and sterile gowns.

## V. DESCRIPTION OF THE MANUFACTURING PROCESS OF POLYPROPYLENE GOWNS AND DRAPES

Kimberly-Clark's polypropylene base sheet is manufactured wholly within the U.S. Polypropylene pellets, supplied by domestic producers, are poured into a hopper, and then melted, and pumped through extruders. Fine fibers exit the extruders and are collected as an unbonded mat on a forming wire. A calender is used to thermally bond several layers together, a process which is typical of paper-making. The result is a bonded-fiber fabric. We would like to emphasize that no spinning or weaving, in the traditional sense, characteristic of textile manufacturing is involved in the process.

## VI. DESCRIPTION OF THE RELEVANT MARKET

H.R. 2425 would not change the competitive status of domestic assembly operations for disposable surgical drapes and sterile gowns. We would estimate that less than 1% of the disposable sterile gowns and less than 6% of the disposable surgical drapes total market that totally assembles these products in the U.S. employs less than 300 persons in assembly operations. Prior to the temporary duty parity legislation among disposables, these domestic companies faced competition from disposable surgical drapes and sterile gowns re-entering the U.S. at a 5.6% ad valorem duty rate or duty free; after enactment of the parity legislation, they still faced that same competition. The continuation of the duty rates for surgical drapes and sterile gowns at 5.6% ad valorem will, therefore, cause no additional competitive burden on these totally intra-U.S. competitors than already exists.

Manufacturers continue to seek methods to minimize costs in order to cooperate with the health care cost containment efforts. The assembly of disposable surgical drapes and sterile gowns is labor intensive and consequently the majority of manufacturers cannot

cost-effectively have the assembly performed in the United States. A chart is attached hereto as Attachment B, which sets forth estimates of the approximate market shares, product components, and tariffs of the companies comprising the disposable surgical drape and sterile gown market. The chart indicates that Kimberly-Clark would pay duties approximately one-and-one-half to three times higher than our competitors for entry of substantially identical products if these duty reductions are not made permanent.

Kimberly-Clark has expended in excess of $155 million for the construction and expansion of our Corinth, Mississippi mill which manufactures the polypropylene base sheet for these products. The mill now employs about 450 people. Further, the Corporation also has completed the U.S. polypropylene base sheet facility in LaGrange, Georgia at a cost of some $120 million as it had committed to do. This mill currently employs about 160 people. In addition, another U.S. polypropylene base sheet facility in Lexington, N.C. started up in December of 1985 at a cost of about $90 million, and it currently employs about 150 people. In support of these new manufacturing jobs for the Health Care Sector, our facility in Tucson, Arizona where the cutting and preparation of the fabric and other materials are done prior to assembly in Mexico has tripled to over 60 employees during the last four years. The continued success of our Health Care business will affect our long-range plans for the LaGrange and Lexington facilities. Tariff parity with the rest of the disposable surgical drape and sterile gown market will allow the Corporation to continue to compete on an equal basis with our competitors who produce similar products with the same end-use.

## VII. CONCLUSION

Kimberly-Clark believes that the temporary tariff reduction establishing tariff parity for disposable surgical drapes and sterile gowns at 5.6% ad valorem has corrected a competitive inadequacy in current tariffs. We also believe that the market experience of the past few years bares out the claim that this action would not disrupt the market balance. Consequently, we feel that the facts support our request for continuation of these reduced duty rates which have helped to create U.S. jobs in construction, manufacturing, cutting, sterilization, sales and marketing. In addition, raw material and finishing suppliers and other supporting operations also have benefited.

We also note for the record that the Administration, in 1983, recognized that this tariff equalization measure was not amenable to multilateral or bilateral trade negotiations, resulting in a "no objection" position on Section 169 of P.L. 98-573 (H.R. 1226 during the hearings in April and May of that year before the Subcommittee on Trade of the House Committee on Ways and Means).

Kimberly-Clark urges passage of H.R. 2425 to make permanent the temporary tariff parity at 5.6% for disposable surgical diapers and sterile gowns manufactured of man-made bonded fiber fabric.

Attachment A

June 12, 1987

Example of Comparable Duty Rates for Disposable Sterile Gowns

| | Duty Rate | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Year | Paper 256.87 | MMF* | | 379.9601 383.9205 | | Combined Effective Rate MMF* | % MMF* Duty vs. Paper |
| 1983 | 5.6% | 24% | + | .16 lb. | = | 29.1% | 520% |
| 1984 | 5.6% | 22.3% | + | .13 lb. | = | 26.3% | 470% |
| 1985 | 5.6% | 20.5% | + | .08 lb. | = | 23.0% | 410% |
| 1986 | 5.6% | 18.8% | + | .04 lb. | = | 20.2% | 360% |
| 1987 | 5.6% | 17.0% | + | -- | = | 17.0% | 300% |
| 1988 | 5.6% | 17.0% | + | -- | = | 17.0% | 300% |

* MMF = Man-made fiber

Attachment B

June 12, 1987

| Market Share | Company | Components of Hospital Drape and Gown Products | Assembly Location | TSUS Item # | 1987 Tariff Rate |
|---|---|---|---|---|---|
| 42% | American Convertors Div. of Amer. Hosp. - American/Baxter Travenol | 1) OPTIMA 40% Polyester, 60% Wood Pulp | Mexico | 256.8780 | 5.6% ad val. |
| | | 2) DEXTEX: 0-50% Polyester, 50-100% Wood Pulp | Mexico | 256.8780 | 5.6% ad val. |
| 37% | Surgikos Div. of Johnson & Johnson | 1) FABRIC 450: 40% Polyester, 60% Wood Pulp | Mexico | 256.8780 | 5.6% ad val. |
| 7% | Kimberly-Clark | 1) SPUNGUARD: 100% Spunbonded Polypropylene | Mexico | 381.9600 (905.50)<br>384.9305 (905.50)<br>389.6270 (905.50) | 17% (5.6%) ad val.<br>17% (5.6%) ad val.<br>9% (5.6%) ad val. |
| | | 2) EVOLUTION: 100% Spunbonded Polypropylene | Mexico | 381.9600 (905.50)<br>384.9305 (905.50)<br>389.6270 (905.50) | 17% (5.6%) ad val.<br>17% (5.6%) ad val.<br>9% (5.6%) ad val. |
| 5% | Kendall Corporation (CPP) | 1) SONTARA: 53% Wood Pulp, 47% Polyester Spunlaced | U.S. & Dominican Rep. | 256.8780 | 5.6 ad val. |
| | | 2) DEXTEX: 0-50% Polyester, 50-100% Wood Pulp | U.S. & Dominican Rep. | 256.8780 | 5.6 ad val. |
| | | 3) CONFIL: 50% Polyester, 50% Wood Pulp | U.S. & Dominican Rep. | 256.8780 | 5.6 ad val. |

Attachment B

June 12, 1987

| Market Share | Company | Components of Hospital Drape and Gown Products | Assembly Location | TSUS Item # | 1987 Tariff Rate |
|---|---|---|---|---|---|
| 3% | Mars/White Knight (Div. Workwear Inc.) | 1) REGARD (KAYCEL): 95% Wood Pulp, 5% Nylon Scrim | U.S. & Mexico | 256.8780 | None & 5.6% ad val. |
| | | 2) SONTARA: 53% Wood Pulp, 47% Polyester Spunlaced | U.S. & Mexico | 256.8780 | None & 5.6% ad val. |
| | | 3) DEXTEX: 0-50% Polyester, 50-100% Wood Pulp | U.S. & Mexico | 256.8780 | None 5.6% ad val. |
| 6% | All Other | Various | | | |

Notes:
- o Some of these products contain binders and other treatment chemicals not included in the fiber percentages.
- o Kimberly-Clark, DuPont, Chicopee, and Dexter are the primary producers of the component disposable base sheet for these hospital gowns and drapes. All of the base fabric is manufactured in the U.S.

Source of market share data: Hospital Supply Index - IMS America, 1st Quarter 1987 Report (covers 12 month period). These shares are comprised of disposable surgical gowns, and surgical packs and parts (drapes). Market share percentages represent the share of dollars.

Johnson & Johnson

1667 K STREET, N.W.
SUITE 410
WASHINGTON, D.C. 20006
202/293-2620

June 12, 1987

The Honorable Sam Gibbons
Chairman
Ways and Means: Joint Taxation
2204 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

I appreciate this opportunity to comment in support of H.R. 2425, a bill that will make permanent the temporary duty treatment on certain disposable surgical gowns and drapes.

We believe this legislation should be made permanent, as a first step toward covering other medical products as well. It serves the interest of price moderation and creates a climate for competition and expansion in this industry sector.

For this reason, we urge your favorable consideration of H.R. 2425.

Sincerely,

Nick Ruggieri

Nicholas L. Ruggieri
Director
Washington Affairs

0066P/sam

STATEMENT OF CONGRESSMAN RICHARD RAY
JUNE 12, 1987

CORRECTING INEQUITY IN TARIFF LAWS

Mr. Chairman and Members of the Subcommittee, I would like to comment in support of H.R. 2425; a bill introduced by Mr. Whitten, myself, and others.

The purpose of this measure is to continue the correction of an inequity in the tariff schedule which would unfairly penalize one of America's leading corporations and the employees of this company in the Third District of Georgia.

In 1985, the Kimberly-Clark Corporation completed a new $120 million manufacturing plant in LaGrange, Georgia. It was the largest investment by a new industry located in that city. The plant currently employs about 160 people, almost all of them from the LaGrange, Troup and Columbus, Georgia areas, with a $4 1/4 million annual payroll.

The plant manufactures nonwoven fabrics which will have several uses. Among the end products will be surgical gowns and drapes. The major component of these gowns and drapes is a polypropylene base sheet. After being manufactured in Georgia, the fabric is shipped to Arizona for cutting and then goes on to Mexico where the assembly into gowns and drapes and packaging is done. It then comes back into this country for sterilization and transportation to its final markets.

The purpose of this legislation is to continue the temporary correction of an inequity in the tariff schedule which was enacted in 1984. As they are presently constituted, the tariff schedules apply a duty rate of 17 percent ad valorem to products which are 100 percent polypropylene. Competitive disposable gowns and drapes with the same end-use receive only a 5.6 percent tariff rate under the law because they are classified as reinforced paper when, in fact, they are about 45 percent polyester and 55 percent wood pulp, but the component of chief value is still polyester.

The situation here is really quite simple. We have two products that are made from largely similar components and which are put to virtually identical usage. Yet one of them is assessed a significantly higher tariff than the other.

Kimberly-Clark had two options: the legislative one, or a court challenge. They chose legislation and it became Section 169 of P.L. 98-573 (H.R. 1226). Now, H.R. 2425 would make permanent the temporary changes in tariff treatment on certain disposable surgical gowns and drapes. We should be very clear about what is being asked for here. No one is seeking special favors. We are not applying for duty free treatment, simply the continuation of this duty equalization.

H.R. 2425 still contains the narrow language of the temporary bill, so it will not encroach on any new markets. Also, there is no indication of market disruption over the past few years while the temporary duty equalization has been in effect. In addition, if this temporary duty reduction is allowed to terminate, the duty for these gowns and drapes would again be up to three times that of similar gowns and drapes of their competitiors with identical end-uses. Hospital costs are already out of control, and it makes no sense to further increase them needlessly.

I urge the support of my colleagues for this proposal. In part, because the jobs and the investments involved here are located in my congressional district, but also there are some 237 million Americans, and indirectly this legislation will benefit them. I would also be a poor Congressman if I did not try to protect these jobs, as well as my constituents in the Third District.

But, this bill deserves enactment on its merits. It simply reinforces the basic principle of our American free enterprise system. Substantially similar products should be given an equal chance to compete. Our laws should be structured in such a way as to foster and not inhibit competition.

I invite my colleagues' support for this measure, and will be pleased to respond to any questions which they may have as deliberation on this proposal continues.

STATEMENT OF HON. JAMIE L. WHITTEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSISSIPPI, ON BEHALF OF H.R. 2425

Mr. Chairman and Members of the Subcommittee, I appreciate the opportunity to present this statement in support of H.R. 2425, a bill I sponsored, along with Congressman Richard Ray and several other of my distinguished colleagues, to maintain the status quo for duty on certain disposable surgical drapes and sterile gowns.

In 1984, Congress enacted legislation which I also sponsored that addressed the inequitable situation existing at the time between manufacturers of similar products made up of slightly different materials. This legislation allowed for a 5-year evaluation period with the manufacturers on an equal footing and the Administration had no objections.

The temporary provision expires at the end of 1988 and since there have been no apparent adverse effects to the market place we have introduced this bill designed to merely make the temporary provisions permanent.

In my area, the bill would keep one of our new, growing industries--Kimberly-Clark of Corinth--on the same competitive level as others in the industry. From the original 250 employees employed in the manufacture of the polypropylene base sheets used in the final production of the Kimberly-Clark disposable surgical drapes and sterile gowns, the plant has grown to some 450 employees and expanded at a cost of $150 million. Similar expansion has occurred in La Grange, Georgia, where another 160 people are employed.

Mr. Chairman, without this narrowly-drawn legislation the tariff rates which are 5.6 percent ad valorem would revert to the old schedule requiring rates for Kimberly-Clark products up to three times those of similar products when there is no reason for distinctions to be drawn.

I want to express my appreciation to the Subcommittee for its hard work and diligent efforts in an extremely important but sometimes thankless task. I urge that favorable consideration be given to this legislation and would be glad to provide any further requested information.

DOW CHEMICAL U.S.A.

June 4, 1987

1800 M STREET, N.W.
WASHINGTON, D.C. 20036

202 · 429-3400

Robert J. Leonard, Chief Counsel
Committee on Ways & Means
U.S. House of Representatives
Room 1102 Longworth House Office Bldg.
Washington, DC 20515

Re: H.R. 2430 - Administrative Procedure for Temporary Duty Suspensions

Dear Mr. Leonard:

I am in receipt of notification from the Subcommittee on Trade requesting written comments on certain tariff and trade bills. I would very much like to add the support of Dow Chemical U.S.A. to the passage of H. R. 2430.

There are two main reasons that we feel such legislation should be enacted. The first is that it is vital that there is a more expeditious mechanism to suspend duties for products not available from domestic sources. No temporary duty suspensions have been enacted into law since October 1984. This delay of over 2 1/2 years has put an unnecessary burden on U.S. companies because they have had to pay duties on articles that are vital to their businesses yet not available from domestic sources. This has a detrimental effect on U.S. industrial competitiveness and our ability to compete in world markets. The second reason for supporting H.R. 2430 is the need for a predictable and reliable process to seek temporary duty suspensions. Such administrative process will enable U.S. industries to avoid some of the delays and uncertainties inherent in the legislative process.

The enactment of H.R. 2430 would enable U.S. manufacturers to compete with foreign producers both in the United States and internationally. The U.S. chemical industry has a positive balance of trade (approximately 7.8 billion dollars in 1986) and the enactment of the administrative procedure proposed in H.R. 2430 would help us maintain that positive trade balance, and hopefully, to help improve its growth. We encourage the enactment of H.R. 2430 by the House of Representatives and the Senate.

I would be happy to provide more detailed information if it would be of value to you. Thank you very much for considering our support of H.R. 2430.

Very truly yours,

Richard M. Patterson

AN OPERATING UNIT OF THE DOW CHEMICAL COMPANY

Quality Performance Means More At Dow

STATEMENT OF MOBAY CORP.

Mobay Corporation, a member of the Bayer USA, Inc. group whose parent is Bayer AG of Leverkusen, West Germany, is headquartered in Pittsburgh, PA. Since its formation in the early 1950s, Mobay has become a diversified manufacturer of chemical intermediates supplying products to a broad range of U.S. industry.

In addition to the domestic production of a wide variety of chemical products at plants located in Kansas, Maryland, Missouri, South Carolina, Texas and West Virginia, we do rely on our German parent for some products that are imported for national distribution or used as raw materials in our own manufacturing activities. We, therefore, are very aware of Congress' involvement in granting temporary duty suspensions for products where the suspension is regarded as noncontroversial.

We have experienced the frustration and anxiety resulting from the uncertainties in the process currently used for granting such suspensions. While sympathetic with Congress' position in this process, we would welcome the adoption of a regularized system for effecting duty suspensions on noncontroversial products. Such a process would enable better business planning by importing companies and enhance the ability of American industry to compete abroad.

House of Representative Bill 2430 describes a process that would give the Executive Branch authority to grant temporary suspensions of duty on noncontroversial products. We agree with and favor the basic concept of H.R.2430. There is some concern over the provision that seeks reciprocity from the country claimed to be the beneficiary of the duty suspension. In our view, this bill, when enacted, will greatly benefit U.S. manufacturing and importing companies, and improve American industry's competitiveness in trading worldwide. Making the suspension contingent on getting concessions from exporting countries would likely create obstacles leading to some of the uncertainties of the process currently being used. In our opinion, the bill would be improved by deleting this specific provision.

Mention of this concern should not be taken as opposition to H.R.2430. The overall provisions of this bill offer a vast improvement over the procedure presently being used for obtaining waivers on duty rates of imported products - with or without the specific provision noted. We strongly support H.R.2430 and urge passage of it by the Committee.

socma
SYNTHETIC ORGANIC CHEMICAL MANUFACTURERS ASSOCIATION, INC.
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June 12, 1987

Robert J. Leonard
Chief Counsel
Committee On Ways and Means
U.S. House of Representatives
1101 Longworth House Office Building
Washington, DC 20515

Dear Mr. Leonard:

The Synthetic Organic Chemical Manufacturers Association (SOCMA) is pleased to submit comments in support of H.R. 2430, a measure to provide an administrative procedure for certain non-controversial suspensions of tariffs.

SOCMA is a trade association which represents approximately 150 manufacturers and importers of chemical products, ranging from multinational firms to small businesses that operate regionally within the United States. SOCMA companies and other chemical manufacturers request approximately 76% of all duty suspensions each year.

SOCMA believes enactment of H.R. 2430 will produce a more desirable and practical system for handling duty suspension requests. Currently, the only method for temporarily suspending duties is by enactment of separate legislation. While most of these bills are non-controversial, the ongoing crush of legislative activity more often precludes their passage. In fact, Congress has failed to act upon any duty suspension requests for the past two years. This failure to act, while understandable, does result in the slow down, and in some instances, the shut down of the manufacture of certain articles by U.S. industries. H.R. 2430 will help to remedy this situation.

SOCMA urges the House Ways and Means Committee to report favorably on this legislation. If you have any questions we may answer, please do not hesitate to call upon us.

Sincerely,

Richard M. Patterson

Richard M. Patterson, Chairman
SOCMA International Trade Committee
Government Relations Manager,
Dow Chemical USA

WRITTEN COMMENTS OF
WALD MANUFACTURING COMPANY, INC.

## INTRODUCTION OF WALD MANUFACTURING COMPANY, INC.

Wald Manufacturing Company, Inc. has manufactured bicycle parts since 1905. Other than our war materials productions efforts in World War II, bicycle parts have always been our product line. Since 1924, we have been located in Maysville, Kentucky.

We are a small business in a rural community. Our operations, equipment and plant facilities are modern. Because our only business is bicycle parts, our company's survival and our employees' jobs are solely dependent on the survival of the domestic bicycle and bicycle parts industries.

## IMPACT OF IMPORTS ON THE BICYCLE AND BICYCLE PARTS INDUSTRIES

Our industry is seriously threatened by a veritable tidal wave of imports. This deluge of imports, especially from Taiwan, has decimated our industry to the point where today there are many bicycle parts which no U.S. manufacturer produces. In fact, approximately 75% by dollar volume of parts purchased for bicycles are imported.

Our company's own viability has been seriously threatened by these conditions. Wald's employment has dropped from over 400 employees working overtime in 1973-74 to approximately 200.

Our industry and our company have managed to survive this serious threat by strict quality control, inventory management, increased responsiveness to the needs and problems of our customers, and general belt-tightening. Even though these steps have been difficult and often painful, we are confident that we have made ourselves viable in this very hostile environment, absent any significant new adverse developments. Administrative reduction of our duties by half, overnight, would be a death blow to our company and our industry.

## THE FOREIGN TRADE ZONE THREAT IS INTERWOVEN WITH THE DUTY SUSPENSIONS HISTORICALLY SUPPORTED BY OUR COMPANY AND OUR INDUSTRY

Our customers, the bicycle manufacturers, have also seen significant market erosion from increased importation of finished bicycles. Bicycle parts manufacturers such as Wald have tried to recognize our customers' market needs by flexible delivery, holding prices of parts steady or even lowering them, and by catering our production to their needs. We have also consistently supported the suspension of duties (which would otherwise be owed under the Tariff Schedules of the United States) on designated bicycle parts, typically parts for which no U.S. manufacturer exists. Because of our customers' problems, we have supported duty suspension despite the additional barrier which it creates to our attempting to reclaim those parts from the import market through beginning to manufacture those parts again. We therefore supported subsection (a) of Section 838 of H.R. 3, as ordered reported by the House Committee on Ways and Means on April 6, 1987 and as passed by the House of Representatives on April 30, 1987, which suspended through

December 31, 1990, the duty on designated bicycle parts, even though after this subsection is enacted approximately 50% by dollar volume of the parts imported by U.S. bicycle manufacturers will come into this country duty free. We believe that such suspension meets our customers' legitimate needs yet balances our own needs by not lowering the duty on those parts which are currently made domestically.

However, as recognized in section 838 of H.R. 3, duty suspension for such a large proportion of the parts which comprise a bicycle is morally and logically interwoven with continuation of the present requirement of full dutiability for bicycle parts brought into foreign trade zones (unless reexported). The cosponsors of the provision, H.R. 2350, which became Section 850 of H.R. 4800 as passed by the House of Representatives last session and thus Section 838 of H.R. 3, explicitly recognized the interrelationship of duty suspension and current foreign trade zone treatment when they stated:

> SECTION 1. FINDINGS.
>
> The Congress finds that --
>
> (1) a delicate balance of the interests of the bicycle industry and the bicycle component parts industry has been reached through repeated revision of the Tariff Schedules of the United States so as to allow duty free import of those categories of bicycle component parts which are not manufactured domestically;
>
> (2) this balance, the preservation of which is in the public interest and in the interest of the domestic bicycle industry, would be destroyed by exempting otherwise dutiable bicycle component parts from the customs laws of the United States by granting foreign trade zone status to bicycle manufacturing and assembly plants in the United States; and
>
> (3) the domestic bicycle industry currently is seeking to extend duty suspension on bicycle parts from June 30, 1986, until [December 31, 1990], therefore the balance between that industry and the bicycle component parts industry can only be maintained if the present exclusion of bicycle component parts that are not re-exported from the exemption from the customs laws otherwise available to merchandise in foreign trade zones is also extended from June 30, 1986 until [December 31, 1990].

Moreover, paragraphs (1) and (2) set forth above are virtually identical to the findings announced by the Committee on Ways and Means when it reported favorably Section 211(a) of H.R. 3398 in the 98th Congress (codified at 19 U.S.C. § 81c(b)).

We at Wald could not agree more with these Congressional findings. When we testified before the Committee on Ways and Means in the 98th Congress, and consistently since

then, we have pointed out the innate unfairness of legislatively providing duty free treatment for 50% of all imported bicycle parts and then administratively halving overnight the duty on the remaining imports through the device of a bicycle manufacturer locating in a foreign trade zone or subzone. This is because most of the imports of bicycle parts enter at a duty rate of 10%, and most bicycles enter at 5.5%. The apparent disparity in these rates was intentionally mandated by Congress because of the practical effect of duty suspension legislation, which, when applied to a completely assembled bicycle, causes the dollar value of the two rates to be virtually identical. Yet, if a bicycle manufacturer locates in a zone or has an existing facility declared a subzone, that bicycle manufacturer can choose to apply the finished bicycle rate to the value of certain imported parts, in effect cutting the remaining bicycle parts duties in half.

## OPPOSITION TO H.R. 2430, ADMINISTRATIVE PROCEDURE FOR DUTY SUSPENSIONS

We oppose H.R. 2340's creation of an administrative process for duty suspensions because it would result in splitting Congress' consideration of the foreign trade zone exemption from the duty suspensions on bicycle parts. This would run contrary to Congressional intent and the specific purposes of Section 838 of H.R. 3, as discussed below. Under H.R. 2430, bicycle manufacturers could petition the International Trade Commission ("ITC") for duty suspension on bicycle parts. The ITC would not have jurisdiction over renewing the exemption for bicycle parts from foreign trade zones. Since the petition for suspension of duty would presumably relate to parts which are not manufactured in the United States, there would be no grounds upon which a bicycle part manufacturer could oppose the duty suspensions.

This is because H.R. 2430 incorrectly assumes that the only persons who could be adversely affected by duty suspension as to a specific article are U.S. manufacturers of like or competing articles or U.S. manufacturers of products which use that article as a "significant" raw material or component. The bill ignores the fact that, as to bicycle parts, the extent of duty suspension (roughly 50% by dollar volume of the component parts of a finished bicycle), combined with prior efforts by the dominant U.S. bicycle manufacturer to have its plant declared a foreign trade zone in order to reduce drastically the duty on parts which are not duty-suspended, has been an item of controversy and concern for the past five years. The AFL-CIO, the United Steelworkers of America, bicycle parts manufacturers and bicycle manufacturers generally have all gone on record with Congress in support of this linkage. Indeed, the omnibus trade bills as passed by the House in the most recent and the current session (H.R. 4800 and H.R. 5686 in the 99th Congress, H.R. 3 in the 100th Congress) and as considered by the Senate Finance Committee (S. 1860 in the 99th Congress, S. 490 in the 100th Congress) all contained provisions continuing both provisions and recognizing this linkage.

H.R. 2430 is intended to create an administrative procedure for noncontroversial tariff suspensions. Duty suspension of bicycle parts clearly is controversial unless the foreign trade zones device cannot be used to reduce the duty remaining on non-suspended articles.

In order to avoid breaking this linkage between duty suspension and foreign trade zone treatment for bicycle parts, it is crucial that the foreign trade zone provision's sunset date be removed, thereby making permanent the existing full dutiability of bicycle parts located in foreign trade zones (unless those parts are reexported). Only thus can duty suspension for bicycle parts ever be truly noncontroversial.

## CONCLUSION

While we understand the desire to delegate to an administrative agency consideration of truly noncontroversial items, given the historical interrelationship of a high percentage of duty suspended bicycle parts with full dutiability of all non-suspended bicycle parts when located in a foreign trade zone, such duty suspension cannot be said to be noncontroversial unless Congress acts to make permanent the full dutiability of bicycle parts located in foreign trade zones. Additionally, the limitation of standing to oppose a duty suspension application to U.S. manufacturers of like or competing articles or U.S. manufacturers of products which use the article as a "significant" raw material or component ignores the impact of duty suspension on suppliers, distributors, manufacturers of noncompetitive parts which are, however, related to the article in question, employees of such persons, and consumers.

**H.R. 2431**

*To extend for 3 years the reduction of duty on caffeine*

*Cadwalader, Wickersham & Taft*

*1333 New Hampshire Ave., N.W.*

*Washington, D.C. 20036*

*Telephone (202) 862-2200*

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D. C. Alexander
(202) 862-2336

June 19, 1987

Robert J. Leonard, Esq.
Chief Counsel
Committee on Ways & Means
U.S. House of Representatives
Room 1102
Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Leonard:

On behalf of our clients, BASF Corporation and Henley & Company, we are submitting the following comments on H.R. 2431, a bill to extend for three years the current duty on caffeine and thereby keep the U.S. duty in line with the caffeine duty imposed by the European Economic Community (EEC). Knoll Pharmaceuticals, part of the BASF group, distributes to U.S. manufacturers substantial quantities of caffeine produced by a foreign affiliate of BASF.

Current law. Under current law, imports of caffeine are classified under TSUS item 437.02. When the caffeine duty was converted from a cents-per-pound duty to an *ad valorem* percentage in 1980, an unduly low valuation of caffeine (based on 1976 prices) resulted in an excessive *ad valorem* rate of 10.4 percent. MTN negotiated duty reductions had reduced the scheduled duty on caffeine imports to 8 percent *ad valorem* by 1983, but this was still excessive. Recognizing that the scheduled duty on caffeine was excessive, Congress reduced the duty to 6 percent, effective January 1, 1973, and then to

4.1 percent, effective December 31, 1983. The reduction to 4.1 percent will expire on December 31, 1987. Since the current scheduled duty on caffeine is now 6 percent *ad valorem*, the duty on caffeine will increase by 46 percent in 1988 if the current reduction is allowed to expire.

H.R. 2431. H.R. 2431 was introduced on May 14, 1987 by Congressman Frank Guarini. A copy is enclosed. H.R. 2431 would extend the temporary duty reduction for caffeine imports through December 31, 1990, an extension of three years. Non-MFN rates of duty are not affected. On June 3, 1987, Senator Bill Bradley introduced an identical bill, S. 1318.

Reasons for Retaining Current-Law Reduction. Caffeine may be produced naturally (as a by-product of the decaffeination of coffee or tea) or synthetically. The production of natural caffeine in the U.S. and elsewhere has greatly diminished in recent years as coffee and tea manufacturers have turned to decaffeination processes that do not allow economical recovery of the caffeine. It is estimated that U.S. production of natural caffeine will fall below 2,000,000 pounds in 1987. Pfizer, the sole domestic producer of synthetic caffeine, produces only about 1,600,000 pounds per year.

Caffeine is used in the manufacture of soft drinks (such as colas) and in pharmaceutical preparations (such as analgesics). Essentially all of the diminishing supply of domestically produced caffeine is sold to the major soft-drink manufacturers. As a result, the smaller soft-drink manufacturers and the pharmaceutical companies must now rely entirely on imported caffeine (nearly all synthetic). In 1986, 5,341,520 pounds of caffeine were imported to meet their manufacturing needs. As explained below, a failure by Congress to extend the 1985 reduction in the duty rate for imported caffeine would adversely impact the pharmaceutical industry and small soft-drink manufacturers.

Caffeine imports in 1986 were valued at $20,370,684 and were subjected to duties of $835,198.04. To allow the duty rate reduction on caffeine imports to expire on December 31 and thereby allow the rates to rise by 46 percent in 1988 would increase the manufacturing costs of U.S. manufacturers who must rely on imported caffeine. Smaller soft-drink manufacturers, who

have no access to U.S. production, would be disadvantaged compared to the large soft-drink manufacturers. The international competitive position of the U.S. soft-drink and pharmaceutical industries would also be damaged. As was reported in the Official Journal of the European Community (L-174, July 1, 1986), the EEC agreed last year to reduce the duty on caffeine imports into the EEC, under tariff number 29.42, from 10.4 percent *ad valorem* to 4.1 percent *ad valorem*. (A copy of the pertinent pages of the Official Journal is enclosed). As indicated by the enclosed telex from the Bundesministerium für Wirtschaft, the EEC has continued this reduction through July 31, 1988. Thus, enactment of H.R. 2431 is required to maintain customs duty equity with the EEC and to protect the competitive position of many U.S. manufacturers.

Extending the reduction in the duty rate for imported caffeine would have no adverse effect on domestic industry. The statistics on domestic production and consumption, cited above, amply demonstrate (1) that there is a viable domestic caffeine industry and (2) that the domestic industry cannot fulfill domestic needs.

We will be happy to provide any additional information the Committee may need. If you have any questions, please call me or my colleague Bill Chip at 862-2200.

With best wishes,

Sincerely,

Donald C. Alexander

Enclosures

MAY 14 '87 07:16 KNOLL FINE CHEMICALS - NYC / USA P.3

AUG.19 '86 15:36 KNOLL AG CHEM.VERTR.0621/5892950 S.04

ISSN 0378-6978

# Official Journal
## of the European Communities

L 174

Volume 29

1 July 1986

Anlage 1

English edition

## Legislation

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MAY 14 '87 07:18 KNOLL FINE CHEMICALS - NYC / USA P.5



| CCT heading No | Description | Rate of autonomous duty (%) |
|---|---|---|
| ex 29.37 | (2,3-Dihydro-3-oxobenz[d]isothiazol-2-yl)-N-5-methylisoxazol-3-ylacetamide 5,5-dioxide | 0 |
| ex 29.38 A | Nicotinic acid (INN) | 0 |
| ex 29.38 B II | Dexpenthenol (INN) | 0 |
| ex 29.38 B III | Folic acid (INN) | 0 |
| ex 29.38 B V | Nicotinamide (INN) | 0 |
| ex 29.39 C I | Serum gonadotrophin (INN) | 0 |
| ex 29.39 D II | Betamethasone 17,21-dipropionate (INNM) | 0 |
| ex 29.39 D II | Diflorasone di(acetate) (INNM) | 0 |
| ex 29.39 D II | Alclometasone 17,21-dipropionate (INNM) | 0 |
| ex 29.39 E | Calcitonin (INN), salmon-type and its salts | 0 |
| ex 29.39 E | Prasterone (INN) | 0 |
| ex 29.39 E | Calcitonin (INN), porcine | 0 |
| 29.42 C I | Caffeine and its salts | 4,1 |
| ex 29.42 C VII | Vindesine sulphate (INNM) | 0 |
| ex 29.43 B | Ribose | 0 |
| ex 29.43 B | Sucralfate (INN) | 0 |
| ex 29.43 B | Sucrose benzoate, having a saponification equivalent of not more than 175 | 0 |
| ex 29.44 A | Epicillin (INN) | 0 |
| ex 29.44 A | Piperacillin (INN) | 0 |
| ex 29.44 A and ex 30.05 A II a) 1 | Piperacillin sodium (INNM) | 0 |
| ex 29.44 C | Amphotericin B (INN) | 0 |
| ex 29.44 C | Minocycline (INN) and its salts | 0 |
| ex 29.44 C | Clindamycin (INN) and its salts and esters | 0 |

MAY 14 '87 07:17 KNOLL FINE CHEMICALS - NYC / USA P.4

AUG.19 '86 15:36 KNOLL AG CHEM.VERTR.0621/5892950 P.05



I

*(Acts whose publication is obligatory)*

## COUNCIL REGULATION (EEC) No 1945/86

**of 18 June 1986**

**temporarily suspending the autonomous Common Customs Tariff duties on a number of industrial products**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 28 thereof,

Having regard to the draft Regulation submitted by the Commission,

Whereas production of the products referred to in this Regulation is at present inadequate or non-existent within the Community and producers are thus unable to meet the needs of user industries in the Community;

Whereas it is in the Community's interest to suspend the autonomous Common Customs Tariff duties only partially in certain cases, due particularly to the existence of Community production, and to suspend them completely in other cases;

Whereas, taking account of the difficulties involved in accurately assessing the development of the economic situation in the sectors concerned in the near future, these suspension measures should be taken only temporarily with their term of validity fixed to coincide with the interests of Community production,

HAS ADOPTED THIS REGULATION:

*Article 1*

The autonomous Common Customs Tariff duties for the products listed in the tables annexed to this Regulation shall be suspended at the level indicated in respect of each of them.

These suspensions shall be valid:

— from 1 July to 31 December 1986 for the products listed in Table I,

— from 1 July 1986 to 30 June 1987 for the products listed in Table II.

*Article 2*

This Regulation shall enter into force on 1 July 1986.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Luxembourg, 18 June 1986.

*For the Council*

*The President*

N. SMIT-KROES

MAY 14 '87 07:15 KNOLL FINE CHEMICALS - NYC / USA P.2

MAY.14 '87 09:46 BMWI D-5300 BONN P.01

DER BUNDESMINISTER FÜR WIRTSCHAFT

5300 BONN 1, Villemombler Str. 76

Gesch.-Z.: V A 3/E A 5 - 53 03 90 -
(Bei Antwort bitte angeben)

| Datum | Telefon |
|---|---|
| 14.5.1987 | (02 28) 6 15-1 |
| Bearbeiter: OAR Schrader | Durchwahl: 4178 |
| Dateiname: | Disketten Nr.: |
| Absendung zum Spartarif nach 18.00 Uhr: ☐ ja ☒ nein | |

*Bundesminister für Wirtschaft* Postfach 140280* 5300 Bonn 1*

per Telefax

sofort!

BMWI Bonn - D
14. Mai 1987 334
Eingang Ausgang Blatt
0945 1

An:
Knoll Fine Chemicals
New York
z. Hd. Herrn Rolf Spaeth
Nr. 212/752 82 81
001

The Ministry of Economics of the Federal Republic of Germany confirms that all member states of the European Community agreed to the prolongation from 1 July 1987 to 30 June 1988 of the partial suspension at 4,1 % for Caffeine and its salts.

This decision will be published in the Official Journal in about 3 weeks time.

Bundesministerium für Wirtschaft
V A 3/E A 5 - 53 03 90 -
Im Auftrag
Schrader

## H.R. 2432

*To extend until January 1, 1991, the existing suspension of duty on sulfathiazole, sulfamethazine, and sodium sulfamethazine*

No statements submitted.

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## H.R. 2436

*To extend for 3 years the suspension of duty on hovercraft skirts*

No statements submitted.

FOR IMMEDIATE RELEASE
TUESDAY, MAY 26, 1987

SUBCOMMITTEE ON TRADE #9
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
1102 LONGWORTH HOUSE OFFICE BLDG.
WASHINGTON, D.C. 20515
TELEPHONE: (202) 225-3627

# THE HONORABLE SAM M. GIBBONS (D., FLA.), CHAIRMAN, SUBCOMMITTEE ON TRADE, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, ANNOUNCES REQUEST FOR WRITTEN COMMENTS ON CERTAIN TARIFF AND TRADE BILLS

---

The Honorable Sam M. Gibbons (D., Fla.), Chairman of the Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, today announced that the Subcommittee on Trade is requesting written testimony for the record from all interested parties on the miscellaneous tariff and trade bills listed below.

A determination regarding further scheduling of public hearings or other Subcommittee action on any of these bills will not be made until after the close of this public comment period.

The tariff and trade bills on which written testimony will be received are:

## Duty Suspension Bills

H.R. 2437 (Mr. Barnard and Mr. Jenkins): To extend until October 1, 1988, the existing suspension of duty on p-Hydroxybenzoic acid.

H.R. 2441 (Mr. Coyne): To suspend the tariff on 1,5 naphthalene diisocyanate.

H.R. 2444 (Mr. Miller of Washington and Mr. Chandler): To suspend temporarily the duty on certain luggage frames of aluminum until January 1, 1990.

H.R. 2453 (Mr. Pickle): To suspend the duty on triallate pesticides until January 1, 1991.

H.R. 2457 (Mr. Spratt): To extend until January 1, 1993, the suspension of duty on tetra amino biphenyl.

H.R. 2459 (Mr. Stratton): For the relief of the City of Albany, New York.

H.R. 2483 (Mr. Roth): To provide for 3 years duty-free treatment of certain power-driven weaving machines and parts thereof.

## Classification Bills

H.R. 2440 (Mr. Coyne): Relating to the tariff treatment of tin plate and tin-coated sheets.

H.R. 2442 (Mr. Coyne): To amend the Tariff Schedules of the United States to change the tariff classification to silicone materials.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Persons submitting written comments should submit six (6) copies by the close of business, Friday, June 12, 1987, to Robert J. Leonard, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Room 1102 Longworth House Office Building, Washington, D.C. 20515.

SEE ENCLOSED FORMATTING REQUIREMENTS.

* * * * * * * * * * *

## H.R. 2437

*To extend until October 1, 1988, the existing suspension of duty on p-Hydroxybenzoic acid*

WRITTEN STATEMENT

ON BEHALF OF

HOECHST CELANESE CORPORATION


SUMMARY

Hoechst Celanese Corporation favors temporary duty suspension on p(para) hydroxybenzoic acid (p-HBA), and urges passage of H.R. 2437 because:

- p-HBA is the critical monomer that gives the newly developed liquid crystal polymer materials their unique self-reinforcing properties,
- p-HBA duty penalizes domestic producers of liquid crystal polymers by increasing the cost of a critical raw material,
- removing the duty will not significantly penalize the only domestic p-HBA producer whose material does not meet the stringent quality requirements for liquid crystal polymer production.


STATEMENT

Hoechst Celanese Corporation, whose parent is Hoechst AG of Frankfurt, Germany, is headquartered in Bridgewater, N.J. Hoechst Celanese is a diversified producer of chemical intermediates, films, fibers, engineering resins, pharmaceuticals, and industrial products. Hoechst does not manufacture p-HBA.

It was discovered in the 1970's that the rigid rod like molecular structure produced by polymerizing p-HBA with various co-monomers possess unique self-reinforcing properties. Using p-HBA as the primary monomer, a broad spectrum of polymers with superior mechanical properties, thermal resistance, and chemical resistance can be produced. Because these polymers maintain an ordered molecular structure in the liquid phase they have been given the generic title of liquid crystal polymers (LCP).

There are two domestic producers of LCP based polymers and resins, Hoechst Celanese and Premark International Corporation, headquartered in Northbrook, IL. Both market high performance resins targeted for applications in consumer products, industrial products, electronic components, automotive parts, and military/aerospace applications. Off-shore there are or soon will be LCP producers in Japan, England, Germany, and possible other countries.

The duty penalizes domestic LCP producers by increasing raw material costs. This places domestically produced LCP resins at a cost disadvantage which limits market penetration of these new materials in the fiercely competitive environment of the engineering plastics marketplace. By retarding market growth, p-HBA consumption levels that would ultimately justify domestic production are delayed.

Suspending p-HBA duty should not penalize the one known domestic p-HBA producer, Napp Chemical based in Lodi, N.J. Their small p-HBA unit was sized to supply their downstream parabens production and does not have capacity to supply a significant portion of p-HBA requirements for LCP production. They are not a qualified supplier for Hoechst Celanese LCP because their materials do not meet the stringent quality requirements.

Hoechst Celanese strongly supports H.R. 2437 that proposes suspending duty on p-HBA until September 30, 1988, and urges the Committee to pass on the bill.

If there is a need to communicate further on this matter, please contact Larry Maddox (201) 522-7676.

WRITTEN STATEMENT

ON BEHALF OF

MOBAY CORPORATION

Mobay Corporation a member of the Bayer USA, Inc. group whose parent is Bayer AG of Leverkusen, West Germany, is headquartered in Pittsburgh, PA. Since its formation in the early 1950s, Mobay has become a diversified manufacturer of chemical intermediates and polymeric resins, supplying products to broad areas of U.S. industry having need for polyurethane raw materials and polymers, agricultural chemicals, dyestuffs, pigments, plastics, coating ingredients, textile fibers and industrial chemicals.

Mobay imports PHBA from its parent company in West Germany. Bayer is one of three companies outside of the United Stated that manufactures and exports the chemical. In addition to Germany (through Mobay), the U.S. market is supplied by imports from Japan and China (Taiwan). Imports of PHBA from Taiwan are already eligible for duty free treatment under the Generalized System of Preferences (GSP).

PHBA is a chemical intermediate with three primary market applications: paraben preservatives, specialty coatings, and high performance plastics.

For many years, PHBA has been used to produce a class of preservatives known as parabens (Specifically, methyl paraben, propyl paraben, butyl paraben, and ethyl paraben). These materials are widely used in the U.S. cosmetics and toiletries industry. In its 1984 report, "Frequency of Preservative Use in Cosmetic Formulations," the Food and Drug Administration ranked methyl paraben, propyl paraben, and butyl paraben among the five most widely used preservative products. The parabens are particularly effective against fungi and gram positive bacteria, and they occupy a unique cost/performance niche in the U.S. preservatives market. Parabens are produced in the U.S. by Napp Chemicals, Inc. and Kalama Chemical, and the U.S. market is also served by paraben imports, primarily from Japan, China (Taiwan), and Israel.

Another traditional use of PHBA is in the production of specialty coatings resins. These materials are used to produce plasma spray coatings for jet aircraft engines to improve performance and reduce maintenance costs. A relatively new use for PHBA is in the production of high performance plastics. These new plastics, with high heat resistance and superior physical properties, are finding uses in consumer goods and industrial parts.

Until recently, the bulk of U.S. consumption of PHBA has been governed by demand for preservatives, such as the parabens, in the cosmetics and toiletries industries. Being mature markets, the market share for the paraben based products has stabilized over the years. Consequently, so has demand for PHBA. Total sales for this use of the acid has leveled at about two million pounds annually. In contrast, the plastics use of PHBA represents a growing demand for this intermediate. This end use already consumes multi-million pound quantities of PHBA and further growth is likely.

There have been several results of the duty suspension on PHBA enacted in 1982. First, this action has resulted in lower raw material costs for U.S. paraben preservative producers, allowing them to compete more effectively with imports of finished parabens from overseas, including duty-free imports from Israel and China (Taiwan).

Secondly, this duty suspension has provided lower raw material costs for the new high performance plastics already mentioned. Present use of these plastics bear out the superior properties of the materials that could lead to substantial increases in demand for PHBA. This would depend, of course, on whether the economics of manufacture were right. Cost, relative to performance, is the key criterion that determines the success or failure of a material in the fiercely competitive environment of the engineering plastics marketplace.

There has been no significant commercial production of PHBA in the U.S. even though one domestic company reports otherwise. Despite repeated assertions by this domestic company that they are producing PHBA of a quality and quantity to satisfy a growing U.S. market, reliable market information indicates this is not the case.

We therefore urge the Committee to pass H.R.2437 that would extend duty-free status on PHBA until October 1, 1988 (the former suspension expired Sept. 30, 1985). Passage will continue to assist parabin manufacturers in the U.S. to compete against foreign production imports, and will assure a reliable supply of high quality product to serve expanding domestic needs.

If there is need to communicate further on this matter, please contact P. G. Gemeinhardt (412/777-4875) or C. (Kate) M. Crouch (412/777-4651).

PREMARK
INTERNATIONAL

John M. Costigan
Senior Vice President
and General Counsel

Premark International, Inc.
2211 Sanders Road
Northbrook, Illinois 60062
312-498-8474

**VIA FEDERAL EXPRESS**

June 11, 1987

Mr. Robert J. Leonard
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
Room 1102, Longworth House Office Building
Washington, D.C. 20515

Re: H.R. 2437

Dear Mr. Leonard:

Dartco Manufacturing Inc. ("Dartco") a subsidiary of Premark International, Inc., strongly supports passage of HR 2437.

Dartco manufactures a number of chemical and plastics products, including liquid crystal polymers. It currently employs about 290 people at its manufacturing, research and administrative facilities in Augusta, Georgia. Dartco manufactures XYDAR TM, a liquid crystal polymer, at its Georgia facility and is in the process of developing domestic and international markets for XYDAR TM.

P-Hydroxybenzoic acid (pHBA), is a raw material used in the production of XYDAR TM. Dartco imports this material because, to the best of our knowledge, there is only one domestic producer and that producer uses all of its output internally. Extending suspension of a duty on p-Hydroxybenzoic acid to October 1, 1988, will, therefore, maintain Dartco's competitive position in the liquid crystal polymer industry and should not have adverse effects on any domestic producers of p-Hydroxybenzoic acid.

Accordingly, Dartco respectfully requests that your committee recommend passage of H.R. 2437.

Very truly yours,

John M. Costigan

JMC/bb

cc: Hon. Daniel Rostenkowski

**H.R. 2440**

*Relating to the tariff treatment of tin plate and tin-coated sheets*

Statement of the

American Iron and Steel Institute

on

H.R. 2440

The American Iron and Steel Institute, on behalf of its domestic tin plate producer members which represent 100% of the domestic shipments of tin plate, has the following comments in support of H.R. 2440, introduced by Congressman William J. Coyne.

The current TSUS definitions have created a tariff classification anomaly for the tin plate products group. Tin plate is sold in the U.S. in three forms from domestic steel mills -- in coil, in rectangular shaped cut lengths, and in scroll cut lengths. The scroll cut product -- which is used to produce can ends and shallow food cans -- is cut from the same coil as the rectangular, and is moreover cut to the scroll shape by the same machine as the rectangular cut tin plate. (The scroll shape is used in order to minimize the scrap produced in the can making process and is in the shape of "ears" on the two cut sides.) It is also important to note that scroll cut tin plate tonnages are included in the official U.S. statistics on domestic shipments of tin plate products.

Notwithstanding the above, the current TSUS definitions preclude all non-rectangular (i.e., scroll cut) shaped tin plate product from the TSUS product categories that are covered under the President's Steel Program. As a result of this unintended loophole, as much as one-third of the domestic tin plate market (approximately 850,000 tons in 1986) is in jeopardy as importers that heretofore had no incentive to ship scroll cut products to the U.S. because of the increased costs involved in cutting and then shipping the product, move to take advantage of the loophole by shipping scroll cut tin plate into the U.S. outside the VRAs. U.S. imports of scroll cut tin plate (TSUS 657.15) have thus increased 62% in 1986 as compared to 1984.

H.R. 2440 would correct this unintended loophole by changing the TSUS definitions so that scroll cut tin plate would be classified under TSUS 607.99 and TSUS 607.97 -- the tin plate product TSUSs that make up the tin plate VRA categories.

The AISI therefore strongly supports H.R. 2440 and urges that the House pass it.

# Bethlehem Steel Corporation

SOLAR BUILDING
1000 16TH STREET N. W.
WASHINGTON, DC 20036

COMMITTEE ON WAYS AND MEANS
JUN 15 1987

June 11, 1987

Robert J. Leonard, Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
Room 1102 Longworth House Office Building
Washington, DC 20515

Re: H.R. 2440

Dear Mr. Leonard:

Bethlehem Steel Corporation, a major domestic producer of tin mill products at its Sparrows Point, Maryland plant, wishes to register strong support for H.R. 2440 (Mr. Coyne).

The bill would amend the tariff classification of scroll cut tin plate to include it under the general tin plate product classification (TSUS 607.97 and 607.99). This change is urgently needed to correct a serious and growing circumvention of the President's Steel Program. The various bilateral steel export restraint arrangements cover tin plate products included under TSUS 607.97 and 607.99. Primarily because of shipping inconvenience and expense, scroll cut tin plate was not perceived as an import problem and the omission of TSUS 657.15 from the Arrangements was originally unnoticed.

The oversight has been picked up, however, and imports of scroll cut tin plate are soaring. There is absolutely no rationale for this development other than the incentive to circumvent the Arrangements.

Scroll cut tin plate is simply another form of tin plate and its classification under TSUS 607.97 and 607.99 is functionally and commercially consistent. We urge prompt action to enact H.R. 2440.

Bethlehem understands that this letter will not be included in the printed record.

Sincerely,

Laird D. Patterson
Counsel

June 11, 1987

Mr. Robert J. Leonard
Chief Counsel, Committee on Ways & Means
U.S. House of Representatives
Room 1102 Longworth House Office Building
Washington, D.C. 20515

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Subject: Comments on H.R. 2440 - Classification Bill Relating To Tariff Treatment of Tin Plate and Tin Coated Sheets

Writer: Walter F. Bish, President
Independent Steelworkers Union
Weirton, West Virginia

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Dear Mr. Leonard:

The Independent Steelworkers Union represents approximately 7,000 production, maintenance, salaried and professional employees of the Weirton Steel Corporation, the largest employee-owned corporation in the world.

Weirton Steel Corporation relies heavily upon revenues generated from the sale of tin mill products. For this reason, on behalf of this Union, I wholeheartedly support H.R. 2440 as introduced by Congressman Coyne.

This legislation will eliminate a significant and unintended loophole which allows scroll cut tin plate to evade steel VRA restrictions. "Scroll cut sheets" of tin plate are not subject to VRA's in its present form. The elimination of this loophole from our stand point, is urged to help maintain the employment and shipment levels presently enjoyed by the Weirton Steel Corporation.

For the above reasons, as President of this Union, I join in the support previously communicated by the Weirton Steel Corporation. I enthusiastically encourage Congress to act swiftly in addressing this legislation. This bill, if enacted, will contribute significantly to eliminating this threat to the continued success of both the Weirton Steel Corporation and its employee-owners.

Sincerely,

Walter F. Bish

WALTER F. BISH, President
Independent Steelworkers Union

WFB/tp

LTV Steel Company

LTV

June 12, 1987

JUN 16 1987
WAYS AND MEANS

The Honorable Dan Rostenkowski
Chairman, House Ways & Means Committee
U.S. House of Representatives
2111 Rayburn House Office Building
Washington, DC 20515-1308

Dear Congressman Rostenkowski:

LTV Steel Company, Inc. strongly supports the passage of H.R. 2440. This bill will amend the headnotes of the U.S. Tariff Code to require that tin plate steel scroll that is being imported into the United States be counted by Customs as tin plate sheet imports rather than under the special tariff classification for non-rectangular shaped products.

Tin plate scroll is produced by merely changing the shearing die to give the ends of the sheet a scroll cut rather than a straight cut and does not constitute a transformation of the sheet product. Tin plate scroll is used to produce tin can "ends" that accounts for approximately 35% of the tin used in each tin can. LTV Steel Company, Inc., a major domestic producer of tin plate, is disturbed that foreign producers exporting tin mill products to the United States have been taking advantage of a technicality in the U.S. tariff code by changing the cut of tin plate sheets and thereby circumventing the President's VRA program. We believe the technical correction contained in H.R. 2440 is essential.

LTV Steel hopes your vote will be in favor of H.R. 2440. I will be pleased to answer any questions you may have.

Very truly yours,

Dan Minnick

Daniel R. Minnick

DRM/pb7176J

LTV STEEL COMPANY • LAW DEPARTMENT • LTV STEEL BUILDING • 25 WEST PROSPECT AVENUE • CLEVELAND, OHIO 44115 • TELEPHONE (216) 622-5000

United States Can Company

June 25, 1987

Mr. Robert J. Leonard, Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
Room 1102 Longworth House Office Building
Washington, D.C. 20510

Subject: Bill H.R. 2440

Dear Mr. Leonard:

We at United States Can Company have been made aware of Bill H.R. 2440, which is deliberating the change of the Custom Tariff Schedules, namely "Category of Scroll-Cut Tinplate."

It is our understanding that this bill will:

- Increase the ad valorem duty from 2.4% to 3.5%.
- Recategorize scrolled tinplate from T.S.U.S.A. 657.1500 to T.S.U.S.A. 607.9900.

It is our opinion that either action would have a deleterious impact on our company.

Scroll-cut tinplate requires special cutting dies. We have recently invested in excess of $50,000 for two (2) die sets in anticipation of continued sources of scroll-cut material from both a European and Japanese mill. Domestic steel mills are not capable of providing scroll-cut material.

The absence of domestic mill capability to scroll material puts our foreign sources in a position of:

- Passing the entire increased duty on to us.
- Raising the price (otherwise) or withdrawing from the scrolled material market as a result of the reclassification to T.S.U.S.A. 607.9900 since scrolled material, and the resultant economics, would be in competition with all other tinplate grades in T.S.U.S.A. 607.9900.

In summation, passage of Bill H.R. 2440 would cause the United States Can Company economic loss through higher material costs and possible disruption of service during the time of possible withdrawal of scrolled material.

The United States Can Company, headquartered in Oak Brook is a privately owned producer of metal aerosol and paint containers. We operate manufacturing locations in 10 states and have 2500 active employees.

Your consideration of our potential dilemma is requested.

Sincerely,

UNITED STATES CAN COMPANY

Thomas J. Yurco
Vice President Procurement and
Development Planning

TJY:jam

June 11, 1987

Robert J. Leonard
Chief Counsel, Committee on Ways & Means
U.S. House of Representatives
Room 1102 Longworth House Office Building
Washington, D.C. 20515

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Subject: Comments on H.R. 2440 - Classification Bill Relating to Tariff Treatment of Tin Plate and Tin Coated Sheets

Writer: R. Alan Prosswimmer, Chief Financial Officer
Weirton Steel Corporation
Weirton, West Virginia

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Dear Mr. Leonard:

Weirton Steel Corporation, as a leading producer of tin plate and tin coated sheets, enthusiastically supports H.R. 2440 as introduced by Congressman Coyne.

This bill will correct an unintended loophole which allows scroll cut tin plate to evade steel VRA restrictions.

Tin plate imported as coils or as straight cut sheets enters the U.S. under TSUS No. 607.99 and is covered under the VRAs. Tin plate imported as "scroll cut sheets" is assigned TSUS No. 657.15 and is NOT subject to VRAs.

From our viewpoint, tin plate is tin plate--whether coiled, straight cut sheets or scroll cut sheets. Our customers report that several countries are actively pushing sales of scroll cut sheets because this product is not covered by restrictive language.

It is urgent that this loophole be closed to help preserve the jobs of 8,400 steelworkers at Weirton Steel Corporation and thousands of other jobs in the domestic steel industry.

Tin mill products are vital to the business of Weirton Steel, West Virginia's largest single industrial company, and represent about 40% of Weirton's annual shipments.

Together with the Independent Steelworkers Union and the Independent Guard Union at Weirton Steel, we urge the Congress to act immediately to eliminate this threat to the economic security of our employees.

Sincerely,

R. Alan Prosswimmer
Chief Financial Officer

RAP/seg

**BASF Corporation**
Chemicals Division

**BASF**

C. William Axce
General Manager

June 2, 1987

Mr. Robert J. Leonard
Chief Counsel,
Committee on Ways and Means
U. S. House of Representatives
Longworth House Office Building
Room 1102
Washington, DC 20515

Dear Mr. Leonard:

I am writing in support of H.R. 2441, legislation introduced by Congressman Coyne, that would temporarily suspend import duties on Napthalene Diisocyanate (NDI).

BACKGROUND AND USES

NDI is used by BASF as a major raw material in the production of elastomeric auto parts. These parts are supplied to the leading U.S. auto makers.

Currently, these elastomeric components are manufactured in West Germany and imported to the U.S. BASF is currently building a plant in Wyandotte, Michigan scheduled for startup later this year, which will produce these elastomeric NDI-based auto parts for U.S. car companies. The plant will add 50-60 new jobs and produce the following estimated number of parts which otherwise would have to be imported.

| | Million Parts |
|---|---|
| 1988 | 8.9 |
| 1989 | 10.5 |
| 1990 | 11.5 |
| 1991 | 12.5 |

COMPETITIVE SITUATION

NDI is an expensive material with unique and specific characteristics. It is not currently or previously available from U.S. sources. The market demand for this material is not great enough to justify U.S. production at this time. Current source of supply is from West Germany.

Toluene Diisocyanate (TDI) and diphenylmethane diisocyanate (MDI), other elastomers which BASF produces in the U.S., are not replacements for NDI, nor do these raw materials compete in this market. Elimination of the import duty is important to the economical production of polyurethane elastomer parts in the U.S. for domestically produced cars.

We respectfully urge the Committee give favorable consideration to H.R. 2441.

Sincerely,

C. W. Axce

mh

1609 Biddle Avenue, Wyandotte, Michigan 48192 (313) 246-6100

WRITTEN STATEMENT

ON BEHALF OF

MOBAY CORPORATION

Mobay Corporation, a member of the Bayer USA, Inc. group whose parent is Bayer AG of Leverkusen, Germany, is headquartered in Pittsburgh, PA. Since its formation in the early 1950s, Mobay has become a diversified manufacturer of chemical intermediates and polymeric resins, supplying products to broad areas of U.S. industry having need for polyurethane raw materials and polymers, agricultural chemicals, dyestuffs, pigments, plastics, coating ingredients, and textile fibers.

Mobay imports NDI from its parent company. Bayer is one of only two companies throughout the world that manufacturers the chemical. There are no producers in the United States.

NDI is well known in Europe as a precursor in the formation of high strength synthetic rubbers that also exhibit exceptional resistance to water and heat. Called Vulkollan, these specialty elastomers or rubbers have found commercial use in applications requiring excellent abrasion resistance and dynamic properties. Because they are difficult to process and are costly to make, the Vulkollans can not and do not compete with more conventional isocyanate-based rubbers. As a result, they are used in applications where conventional materials do not satisfy end use requirements and specifications. Many parts, based on Vulkollan, are being imported from Europe.

For years, Mobay has offered NDI to the American market through its Polyurethane Division under the tradename DESMODUR 15. Because there were no commercial applications during this period, the economic impact of the high tariff (13.5% ad valorem) has been negligible. NDI was used solely in research and development work.

Within the last 3-4 years, however, such downstream materials, made with NDI, have found commercial utilization. In the U.S. automotive industry's quest for smaller, lighter weight and fuel efficient automobiles, interest peaked in the kinds of rubbers made possible with NDI. A need developed for high performance shock absorbing member parts in the suspension systems of newly designed models of front-wheel drive vehicles. That need was satisfied with rubber parts made from NDI. No other natural or synthetic rubber was found to perform as well as this demanding application. In addition to satisfying the high performance requirements of the application, the use of NDI-based rubbers allowed for a significant reduction in the size and weight of the front-end assembly. This contributed to the car's overall smaller size and lower weight resulting in lower cost and more fuel efficient operation for the end user.

NDI-based rubbers are being used commercially in the front-end suspension systems of many new models of domestically assembled front-wheel drive automobiles. With such models, the domestic auto industry is again becoming competitive within its own market against foreign imports. At a time when worldwide competitive forces continue to push our industries even harder to produce quality products in an efficient and cost effective manner, it seems ill-advised to impose additional burden on manufacturers and the consuming public by taxing products such as NDI.

Because of the growing popularity of these front-wheel drive cars, as manufactured in the U.S., demand for NDI-based rubbers is on the rise and thus, NDI as well. In 1987, Mobay expects to import about 300,000 lbs of NDI which will increase to 600,000 lbs. in 1988. We expect consumption to grow at an estimated annual growth rate of 10 percent. At the prevailing duty rate, the suspension would save the American consumer about one million dollars. Suspending the duty on NDI would also make the corresponding rubber products more cost attractive for potentially new applications. One of these involves an interest by the U.S. Military. In a continuing search for improved materials on equipment used for our national defense, the Military is evaluating rubbers made from NDI as track treads for the M1 and M60 tanks. The testing of NDI based rubber treads is underway at the Yuma, Arizona testing grounds under the supervision of the Motorized Vehicle Command.

To summarize, Mobay strongly supports H.R.2441 that proposes a temporary, three years suspension of duty on NDI because:

- exemption of the ad valorem duty on NDI for a period of three years would benefit U.S. industry and labor, as well as the American consumer, without creating unfair competition for domestic producers of urethane intermediates;
- NDI opens the door to a unique elastomer technology for American urethane elastomer processors who are small businessmen;
- the exemption would eliminate the current cost penalty to the U.S. industry of about one-half million dollars that will increase over the requested period of suspension;
- no harm would come to American industry because there are no domestic producers of NDI;
- it would provide additional jobs for American workers by encouraging production of unique Vulkollan parts in the United States instead of Europe;
- benefits would come to the U.S. chemical industry which would supply other chemical raw materials to react with the NDI;
- this action could lay the groundwork for establishing NDI production capacity in the United States in the future;
- even without duty, NDI-based elastomers/rubbers are much more expensive than other urethane elastomers, and would not compete with them; and
- the unique properties of NDI-based elastomers/rubbers will open application areas in the U.S. market where other urethane-based materials do not meet performance requirements.

We urge the committee to pass H.R.2441. If additional information is needed, please contact P. Gemeinhardt (Tel. No. 412/777/4875) or D. Birnie (Tel. No. 412/777-2635).

JOHN G. ROWLAND
5TH DISTRICT, CONNECTICUT

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COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION
SUBCOMMITTEE ON INVESTIGATIONS AND OVERSIGHT
SUBCOMMITTEE ON SURFACE TRANSPORTATION

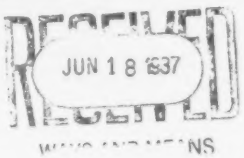
COMMITTEE ON VETERANS' AFFAIRS
SUBCOMMITTEE ON HOSPITALS AND HEALTH CARE
SUBCOMMITTEE ON HOUSING AND MEMORIAL AFFAIRS

SELECT COMMITTEE ON NARCOTICS ABUSE AND CONTROL

**Congress of the United States**
**House of Representatives**
**Washington, DC 20515**

June 18, 1987

COMMITTEE ON




The Honorable Dan Rostenkowski
Chairman
Committee on Ways and Means
Longworth House Office Building
Room 1102
Washington, D.C. 20515

Dear Mr. Chairman:

I wish to bring to your attention a matter which is now pending before the Senate in its consideration of the omnibus tariff and trade bill, as well as before the Ways and Means Committee as H.R. 2441.

This bill would suspend the current import duties on a chemical referred to NDI, and would cause competitive harm to workers and domestic manufacturers engaged in the production of competitive chemicals. The Committee considered and rejected an identical predecessor bill during the 99th Congress (H.R. 1778), and should do so again. Furthermore, in the event that the Senate passes a trade bill which includes a counterpart tariff suspension for NDI, I strongly urge opposition to the inclusion of this duty suspension in the trade bill during the House and Senate conference.

The Chemical NDI competes directly with prepolymer systems produced by my constituent, Uniroyal Chemical Company, Inc. In the polyurethane applications for which NDI is used, the Uniroyal Chemical prepolymers systems, manufactured at Naugatuck, Connecticut, serve the same functions, providing characteristics to the plastic such as mechanical load stability and heat-abrasion resistance. No unique demand for the imported NDI has been identified which is beyond the capability of Uniroyal's competitive products, and in fact, imported NDI competes head-to-head with Uniroyal's products with increasing frequency. The Administration opposes this measure because of the possible adverse consequences it will produce for the domestic industry.

In light of the upcoming Uruguay Round GATT negotiations, it would be inappropriate to eliminate unilaterally a tariff on a competitive import, which could provide U.S. negotiators with leverage for obtaining tariff concessions beneficial to U.S. exporters. I strongly urge the Committee not to depart from its position during the 99th Congress, and not to report favorably on H.R. 2441.

Sincerely,

John G. Rowland

JOHN G. ROWLAND
Member of Congress

JGR/hm

THOMBERT, INC.
BOX 1123, NEWTON, IOWA 50208 • 515-792-4449

June 9, 1987

Mr. Robert J. Leonard
Chief Counsel
Committee on Ways & Means
U.S. House of Representatives
1102 Longworth House Office Bldg.
Washington D.C. 20515

Request for Public Comment
Re: Naphthalene-1,5-diisocyanate

I am writing in support of provisions in HR-2441 eliminating the import duty on Naphthalene-1,5-diisocyanate. My firm, a small business, manufactures polyurethane products and is the first United States firm to manufacture "Vulkollan" with this chemical. "Vulkollan" is a unique polyurethane product that has unusual dynamic physical properties. As far as I know, there is no other material that will perform as well as Vulkollan. I have this knowledge from over six years of testing more than 700 samples for dynamic strength as a wheel tread material.

Naphthalene-1,5-diisocyanate has no known substitute in the world for manufacturing the highest quality polyurethane elastomers possible. It is also extremely expensive. At $12.00 per pound before reaction with other components it produces a material that costs twice as much as alternate lower performance polyurethane systems.

This price differential is much larger than the performance differential. Elastomers made with Naphthalene-1,5-diisocyanate will in all likelihood be used only in those most demanding applications where lower performance materials are failing. The imposition of a duty does not protect the low performance materials that are failing. Customers will continue to buy the best value possible and will purchase high performance materials only when necessary. This duty places a tax on quality.

Worse yet, it penalizes United States manufacturers who choose to manufacture quality products by increasing the cost of imported materials. Naphthalene-1,5-diisocyanate is manufactured only in West Germany. Products such as lift truck wheels manufactured in the United States from this chemical will be placed in an uncompetitive position in world markets. If we want world class competitors in the United States, it is necessary to remove the import duty on this unique chemical so that United States manufacturers can prcduce quality products at the same cost as West European competitors. Removal of this duty would open the doors for United States' manufacturers to add value to products and sell them world wide. The result, of course, is a balance of trade change in our favor.

Very truly yours,

Walter W. Smith
President

WS:jz

Before the
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON TRADE

STATEMENT OF

UNIROYAL CHEMICAL COMPANY, INC.

IN OPPOSITION TO H.R. 2441

TO SUSPEND THE DUTY ON 1,5 NAPHTHALENE DIISOCYANATE

BARNES, RICHARDSON & COLBURN
475 Park Avenue South
New York, New York 10016

- and -

1819 H Street, N.W.
Washington, D.C. 20006

Andrew P. Vance
Matthew T. McGrath

June 12, 1987

This statement is submitted on behalf of Uniroyal Chemical Company, Inc., in response to the invitation for comments of the Committee on Ways and Means, Subcommittee on Trade (Release No. 9, May 26, 1987) concerning certain tariff and trade bills.

Uniroyal opposes the enactment of H.R. 2441, a bill to suspend for three years the duty on 1,5 naphthalene diisocyanate, (also known as "NDI"), and joins the Administration in opposition to this bill. There is no reason for the Committee to change its position from that of the 99th Congress, during which the identical predecessor to this bill, H.R. 1778, was considered and rejected. Uniroyal, a U.S. producer of chemicals and chemical systems, including polyurethane elastomer systems, believes that the implementation of a duty suspension for this chemical would adversely affect U.S. producers of chemicals and chemical systems which compete in the marketplace for sales to producers of the same end products, namely "jounce bumpers" and other plastic parts used in automotive applications, as well as cast industrial wheels. Therefore, the intended duty rate for this article should remain in effect, pursuant to bound tariff concessions under the General Agreement on Tariffs and Trade.

Uniroyal urges the Subcommittee to incorporate the record of its consideration of the predecessor bill, H.R. 1778, during the 99th Congress. Uniroyal reiterates its opposition to that bill, expressed in a statement to the Committee in 1985. (See WMCP 99-11, 99th Cong., 1st sess, 454 (1985).)

The Product and its Uses

NDI is used as a basic chemical component of polyurethane elastomers. It must normally be used in conjunction with a polyol and a chain extender to produce a polyurethane system, which is then used in producing polyurethane materials. The chemical system can be produced using either N.D.I., toluene diisocyanate (TDI), or diphenylmethylene diisocyanate (MDI) as the isocyanate component. These systems may be used by a parts manufacturer in a number of applications, including automotive and engineering equipment, textiles, electrical equipment, and the construction industry. The characteristics imparted by these polyurethane systems which are important in their various applications include modulus, elasticity,

mechanical load stability, abrasion resistance, and resistance to heat buildup. Among the more recent applications developed for which polyurethane systems terminated with NDI, TDI, or MDI is useful, is so-called "jounce" bumpers or strut-type shock absorbers for vehicles. The deflection characteristics of these urethane systems make them suitable for this recently developed market. In addition, industrial tires and wheels production has developed into an increasingly important market for the imported NDI and the domestic prepolymer systems.

NDI, which is the subject of H.R. 2441, is apparently imported only from Germany, and is sold in the United States to polyurethane producers who combine it with polyols and chain extenders to produce chemical systems. Uniroyal markets polyurethane prepolymer systems which use either TDI or MDI as the basic isocyanate, rather than selling the TDI or MDI separately. Other U.S. producers manufacture only these chemicals. Thus, the urethane producer/end-user may either purchase the isocyanate and incorporate it into its own chemical systems, or purchase a system, of which the diisocyanate is a terminate. To this extent, NDI separately competes with systems based on TDI or MDI, depending on whether a purchaser chooses to combine the diisocyanate with polyols and chain extenders themselves, or purchase the prepolymer system. In opposing the predecessor measure to this bill during the 99th Congress, the U.S. Department of Commerce recognized NDI to be an indirect competitor of TDI/MDI-based systems, concluding that there could be an "adverse competitive effect from the duty-free importation of the material."

A Duty Suspension on NDI would
Adversely Affect U.S. Producers

Uniroyal is a producer of urethane systems, and as such, purchases the TDI or MDI from other chemical manufacturers. Upjohn, Rubicon, Union Carbide, and Olin are all domestic concerns which sell the diisocyanate itself; Uniroyal, American Cyanamid, Conap, and several other concerns market the urethane systems using diisocyanates.

NDI is not currently produced in the United States, and Uniroyal believes the chemical is imported only from Germany. The tariff currently assessed on NDI under TSUS item 405.82 permits U.S. producers of urethane intermediates which serve the same markets to remain competitive. However, the suspension of this duty would affect U.S. prices for NDI, thus making it more difficult for U.S.-produced TDI- and MDI-terminated systems to compete. Uniroyal is not aware of any applications for NDI in urethane elastomers which are not also served by TDI and MDI-based systems. NDI is still available to the chemical intermediate producers and end-users who perceive its performance characteristics to be preferable, in some manner, for their individual specifications, and the existence of the present tariff does not make its use prohibitive.

Among the arguments cited in support of this bill is the assertion that NDI is the only acceptable isocyanate for elastomers which can satisfy the high-performance requirements of shock absorbing parts in motor vehicle suspension systems. However, U.S. MDI or TDI-based prepolymer systems producers have already been successful in qualifying these competing systems with automobile manufacturers for their use in producing identical suspension system components. Testing of these materials by the U.S. military included both NDI and MDI/TDI systems, and to Uniroyal's knowledge, identified no definitive need for supplies of NDI to a degree which would require a tariff suspension. A major existing market for these competing chemicals is solid industrial tires, the largest single market for cast materials. Both NDI and TDI/MDI systems are used extensively in the solid tire market, and in the last year, imported NDI has made substantial inroads in this market, in direct competition with Uniroyal. Uniroyal competes directly with NDI in the European markets for the same applications.

Another argument by proponents is that NDI is more expensive than the Uniroyal systems, and therefore, poses no competitive threat. However, an examination of the submission to the Senate Finance

Committee by Mobay Chemical Company in 1986 reveals that elastomer cost differences between the NDI-based product (Mobay's Vulkollan) and Uniroyal's TDI and MDI-based products (Adiprene and Vibrathane) are not as significant as the price difference between the isocyanates themselves. This is because the actual volume of NDI required for the pre-polymer is not as great as the volume of TDI or MDI necessary to serve the identical function. When the cost of the competitive products is adjusted for density at the elastomer level, where they compete, the prices are quite comparable. For instance, the 1986 NDI-based elastomer price of $3.32 per pound (calculated without duty) is highly competitive with the density-adjusted price of Uniroyal's TDI-based Adiprene elastomer: $3.20 per pound. Therefore, the price of the NDI isocyanate alone cannot be compared directly on a per-unit basis with the price of the domestically manufactured TDI/MDI elastomers. At the point of competition, the prices would be almost identical. The fact that certain customers have used both NDI and the Uniroyal pre-polymer systems clearly demonstrates that price differentials are not so significant as to establish a preference.

Suspension of the tariff could undermine the competitive balance in this market, and erode sales of domestically-manufactured TDI and MDI-based systems. As described above, NDI is usually not incorporated into a prepolymer system, due to the extreme instability of the resultant prepolymers. Consequently, NDI would be purchased and used directly by the customer who might also purchase a prepolymer system based on MDI or TDI. However, the customer purchasing NDI would produce his own prepolymer, incorporating it into the production stream for his manufacturing operation. The facilities necessary to produce prepolymers require a significant investment by the customer. As a result, a customer which chooses to purchase NDI and make such an investment is highly unlikely to revert back to the purchase of MDI-TDI prepolymers unless the cost savings are so substantial as to justify the abandonment of the NDI prepolymer reacting facility. Once established in the U.S. market, duty-free imports of NDI can permanently subvert markets for competing, domestically produced prepolymer systems.

Uniroyal does not object to competing with NDI in these markets, and emphasizes that it does not seek any restriction on the importation of NDI or any higher rate of duty. However, the suspension of the tariff, without equivalent concession for U.S. exports to the European Communities, would place U.S. elastomer system producers at a competitive disadvantage which U.S. negotiators intended to prevent when the current tariff structure was agreed upon. The possible adverse impact is particularly acute in light of the inherent technical difficulty of retrieving a lost account even after a tariff suspension expires. Furthermore, when competitive U.S. producers would be adversely affected, we do not believe it would be appropriate to grant a unilateral tariff elimination immediately prior to the opening of the Uruguay Round of GATT negotiations, effectively preventing a possible negotiated concession.

For the foregoing reasons, Uniroyal opposes the proposed suspension of duties on imports of 1,5 naphthalene diisocyanate, classified under TSUS item 405.82, and believes that the current, negotiated tariff for this product, which is a part of overall tariff concessions on chemicals resulting from the GATT Tokyo Round should remain in effect.

Respectfully submitted,

UNIROYAL CHEMICAL COMPANY, INC.

By: Matthew T. McGrath

BARNES, RICHARDSON & COLBURN
475 Park Avenue South
New York, New York 10016

- and -

1819 H Street, N.W.
Washington, D.C. 20006

Andrew P. Vance
Matthew T. McGrath
of Counsel

June 12, 1987

## H.R. 2442

*To amend the Tariff Schedules of the United States to change the tariff classification to silicone materials*

COMMENTS OF MOBAY CORPORATION

INTRODUCTION

Mobay Corporation, a member of the Bayer USA, Inc. group whose parent is Bayer AG of Leverkusen, West Germany, is headquartered in Pittsburgh, PA Since its formation in the early 1950s, Mobay has established itself as a diversified manufacturer of chemical intermediates and polymeric resins. Our operating divisions supply products to broad areas of U.S. industry having need for silicone intermediate chemicals, polyurethane raw materials and polymers, agricultural chemicals, dyestuffs, pigments, plastic resins, coatings ingredients, textile fibers and industrial chemicals. These products are manufactured at plants located in Kansas, Maryland, Missouri, South Carolina, Texas and West Virginia. Total employment is about 6500 people.

Bills (H.R.2442 and H.R.3, Title VIII, Section 818) proposing Tariff Schedules of the United States (TSUS) classification and duty rate changes on imported silicone products have been introduced to the House of Representatives.

H.R.2442 is designed to simplify the classification of silicone products for tariff schedules. The simplification of tariff schedules would result in cost efficiencies for importing companies and the government in the administration of business and trade.

Title VIII (Tariff and Customs Provisions) of H.R.3, the Trade and International Economic Policy Reform Act of 1987, as reported by the House Committee on Ways and Means on March 25, 1987, contains miscellaneous tariff provisions. §818 of Title VIII would classify silicones in all of its forms under a single TSUS item and impose a single duty rate on such silicones. This would result in a significant increase in the duties charged on a large number of silicone products imported into the United States and would net a substantial increase in customs duties. Such a unilateral increase in duty would harm domestic companies importing these products.

Mobay imports silicone products from its parent company in West Germany. These products are used as intermediates in the company's manufacturing activities, and are also sold to other U.S. companies for their manufacturing needs. We are not opposed to a simplification of the tariff classes for silicones. Such reclassification, however, should retain separate classes for the distinctly different forms of silicone products. H.R.2442 would accomplish this; §818 of H.R.3 would not. In addition, Mobay strongly opposes the establishment of a single duty rate for silicones, as proposed by §818 of H.R.3.

STATEMENT

Mobay imports silicone products from its parent company in significant quantity. We have been successful in penetrating the U.S. market against formidable domestic competition by astute marketing and carefully matching key property advantages of Bayer produced silicone types to end use application niches.

Presently, duty rates on silicones imported into the U.S. vary according to type as set in the tariff schedules. The single rate for all silicones, proposed in §818 of H.R.3, happen to be the highest of all rates not applied to the various types. This rate would greatly affect our ability to compete with domestic producers offering similar products. U.S. manufacturers of silicones already command a major share of the American market (about 91%). Imposing a single high duty rate would clearly discriminate against importing companies, by giving the domestic producers a very unfair marketing advantage.

In addition, it would severely limit access to foreign technology that could lead and has led to improve on new end use products. As an example of this last point, several forms of silicone products that we presently import are not available from any of the domestic companies supplying silicone products. The reason for this is that our parent company's research in silicone chemistry often leads to special qualities and properties satisfying unique end use needs. This is good for the market place and also good for competition.

In Mobay's efforts to compete in the fiercely competitive U.S. silicone products market, we concentrate commercial development activities on a limited number of select segments of the market that are not being well served by the national distribution network. Over time, the success of this strategy has justified an investment of capital in plant and equipment to manufacture tailor-made compounded products from imported raw materials to serve market niches - raw materials that are not duty free because of current TSUS schedules. This plant is sited in a very depressed areas of western Pennsylvania - an area in desperate need of revitalization - using local workers to staff the operation. The duty rate change proposed in §818 of H.R.3 would severely hamper our long range, future plans for this operation because of higher cost. Clearly, this would give other U.S. producers of silicones an unfair advantage at the expense of the consuming market.

Enactment of the proposed revised duty rate on silicone products would violate the bound rates for these products negotiated during the Tokyo-round of Multilateral Trade Negotiations under the General Agreement on Tariffs and Trade (GATT). In those negotiations, U.S. trading partners agreed to specific rates of U.S. customs duties for the various silicone products. §818 of H.R.3 disregards these agreements and would subject the U.S. to retaliation by its trading partners.

In 1986, the governments of France and West Germany expressed objections to the proposed duty rate changes in letters to the U.S. Trade Representative

Passage of §818 of H.R.3 would also conflict with the historically logical and proper classification of imported products that are distinctly different in chemical and physical makeup and in use. Because silicone products are presently imported under seven different tariff numbers, some simplification is justified but, §818 goes too far. It completely ignores an International Trade Commission (ITC) report dated September, 1986 to the President covering the conversion of TSUS into the Nomenclature Structure of the Harmonized System that recommended retaining the separate classifications for silicone resins and materials. The report, prepared as a result of an International Trade Commission investigation of tariff schedules according to Presidential guidelines, recognized the distinctly differing character in this class of chemicals and sought for the preservation of the historical integrity of the TSUS as it has been administered by the Customs Service. The Presidential guidelines further directed that this be done with no alteration of the duty rates for the distinctly differing forms/classes of silicones. §818 conflicts with both of these directives.

The simplified classification proposed in H.R.2442 would not conflict with International Trade Commission's recommended class structure for silicone products in a Harmonized System. In fact, it mirrors that recommendation while retaining the duty rates currently scheduled.

Mobay urges the committee to reject §818 of H.R.3 and to pass H.R.2442 that will provide for a simpler classification of imported silicone products in a way that will not harm domestic companies using them.

If there is a need for more information, please contact P.G. Gemeinhardt (412) 777-4875, J.W. Richey (412) 777-2950 or S.L. Sarniak (412) 777-2015.
J.W. Richey.

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COMMENTS OF
RHONE-POULENC INC.
SUPPORTING H.R. 2442 RELATING TO THE
TARIFF CLASSIFICATION OF SILICONE PRODUCTS
AND OPPOSING SECTION 808 OF H.R. 3
RELATING TO THE SAME SUBJECT MATTER

PRELIMINARY STATEMENT

These written comments are submitted pursuant to the request of May 26, 1987 by The Honorable Sam M. Gibbons, Chairman of the Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, for written testimony for the record on certain tariff bills. Rhone-Poulenc Inc. ("RP") takes this opportunity to comment on H.R. 2442 relating to the tariff classification of silicone materials and also on Section 808 of H.R. 3 relating to the same subject matter. RP opposes enactment of Section 808 of H.R. 3 because enactment would increase duties on silicone imports and would violate U.S. international obligations. RP supports enactment of H.R. 2442, which maintains existing duty rates on silicone imports and is consistent with U.S. international obligations.

INTRODUCTION AND BACKGROUND

Rhone-Poulenc Inc. is a U.S. corporation with corporate offices in New York, New York and with principal business offices at P.O. Box 125, Black Horse Lane, Monmouth Junction, New Jersey.

RP imports many silicone and other products which, in addition to products manufactured in the United States, are distributed on a national basis. RP employs 3,750 individuals in the United States and has manufacturing facilities in Georgia, Missouri, New Jersey, Oregon, Pennsylvania, Tennessee, Texas, Washington, and West Virginia. RP is expanding its silicone facility in Lakewood Township, New Jersey, which utilizes imported silicone and will be adversely affected by any increases in duty on silicone products.

Section 808 of H.R. 3 (hereinafter referred to as "Section 808") would amend the Tariff Schedules of the United States ("TSUS") to classify silicone in all its forms under a single TSUS item and to impose a single rate of duty on such silicones. At present, silicones are classified under separate TSUS items based on the distinct physical characteristics and end uses of each particular silicone product. The distinct forms of silicone are subject to varying rates of duty. Currently, these rates vary from duty free to $.01 per pound plus 7.7 percent ad valorem. Section 808, in reclassifying the distinct forms of silicone under one TSUS item, would subject the silicones to the single rate of duty of 3.7 percent ad valorem.

H.R. 2442 would also amend the TSUS to change the tariff classification of silicone. However, H.R. 2442, in reclassifying the distinct forms of silicone under one TSUS item, would maintain the existing duty rates.

STATEMENT OF POSITION

Section 808

A. Section 808 Would Substantially Increase The Duty Rates On A Significant Number of Silicone Products Imported Into The United States

Section 808, if enacted, would amend the TSUS by changing the classification of certain silicone rubbers and materials and imposing a uniform rate of duty on them. At present, various forms of silicone are classified separately under different TSUS items. Among the TSUS Annotated items are 429.9530 (organo-silicone compounds), 446.1576 and 446.1580 (synthetic silicone rubber), 445.5660 (silicone resins), 474.6200 (putty and caulking), and 494.6040 (cement, NSPF). Section 808 would classify all of the above silicones under one new TSUS item-445.55.

One change in duty rates that would occur with enactment of Section 808 involves certain materials which are now classified as synthetic rubbers. Synthetic rubbers are classified in Schedule 4, Part 4 of the TSUS, in item 446.15 with a free rate of duty. If enacted, Section 808 would move those products to new TSUS item 445.55 with a duty rate of 3.7% ad valorem.

The duty-rate increase of the magnitude set forth which would result from enactment of Section 808 would impose onerous and unfair burdens on importers of silicone rubber and those U.S. companies such as RP which use such imports for their U.S. production. Such increases would be without cause, and would serve only to significantly damage the business of importers and U.S. companies using these silicone products by increasing their costs. American consumers would also suffer as their sources of supply and product selection would be diminished. Furthermore, American consumers would be subjected to higher prices, not only for the silicone products themselves, but also for end products in which the silicone products are incorporated.

When considering any reclassification, it is important to be aware of the reasons for implementing such a change. The changes embodied in Section 808 are supported by two (2) U.S. silicone producers (Dow Corning Corp. and General Electric) which together control a major share (estimated at 70 percent) of the U.S. market for the silicone products in issue. These companies would have Congress believe that they support the reclassification out of their heartfelt desire to simplify the TSUS. Why is it that these domestic producers of silicone products are so concerned with the way these products are classified for importation purposes? We suggest that the domestic producers' concern stems from their belief that enactment of the reclassification with its concomitant duty increase would give them an even stronger competitive advantage than now over those U.S. companies which use such imported chemicals. Giving a stronger competitive advantage to companies which already have a major share of the U.S. market by taking an action which, as set forth below, is violative of U.S. international obligations is inappropriate, particularly when other U.S. companies which export would be faced with duty increases created by lawful retaliation by our trading partners. There is no legitimate reason for unilaterally increasing the rate of duty on silicone products as would be done by enactment of Section 808.

B. Section 808 Would Increase Duties In Violation Of U.S. Obligations Under The General Agreement on Tariffs and Trade ("GATT")

As discussed above, enactment of H.R. 3 would substantially increase the rate of duty imposed on silicone rubber (and some other silicone products as well). This unilateral, unjustified increase would be in clear violation of the GATT and U.S. commitments made in the last Multilateral Trade Negotiations ("MTN").

Under the GATT, U.S. customs duties and the customs duties of other GATT members have been generally reduced and "bound". "Bound" means that the duties cannot be increased without an agreement and appropriate negotiated compensation between the GATT members. At the Tokyo-round MTN the United States agreed to be bound by the duties negotiated therein for silicone products, as now reflected in the TSUS. In particular, the U.S. is bound to a duty free treatment in 1987 for silicone rubber currently classified under TSUS item 446.15. The duty rates of silicone products were incorporated into the GATT through U.S. Schedule XX, which under paragraphs 1 and 7 of Article II of the GATT is an integral part of the GATT.

Both the U.S. Department of Commerce and the U.S. International Trade Commission ("ITC") recognized the GATT violation which would result from a similar provision on silicone in a bill in the last Congress which was virtually identical to Section 808. With respect to this prior bill, S. 579 introduced in the 99th Congress, which would have made the same amendments as Section 808, the ITC stated:

> To the extent that rates of duty are increased above the bound duty rates for any of the affected articles, it should be noted that enactment of the legislation could be viewed as a violation of U.S. obligations to maintain those rates under GATT Article II. Thus, there may be claims for compensation from or retaliatory withdrawals of beneficial concessions by our trading partners.
>
> "Memorandum to the Committee on Finance on S. 579 from the U.S. International Trade Commission", p. 15 (May 23, 1985).

The Department of Commerce noted in its April 25, 1986 letter to Senator Packwood on S. 579 that:

> The rates of duty on the items affected by S. 579 are bound in U.S. Schedule XX of the General Agreement on Tariffs and Trade (GATT), and cannot be changed except in accordance with specific procedures prescribed by the GATT. Increases in the duties on these products could render the United States subject either to claims for compensation, or to retaliation by affected countries. Since a country is not obligated to accept as compensation a duty reduction on another item by the United States, there is no guarantee that the duty reduction on silicone resins provided for in S. 579 would be accepted as compensation by our trading partners.

The substantial unilateral increases in duties that would occur with enactment of Section 808 would indeed be viewed as a violation of U.S. GATT obligations. Last year, in communications to the Senate Finance Committee, officials of the Embassy of

France, the Embassy of the Federal Republic of Germany, and the Delegation of the Commission of the European Communities opposed the provisions of S. 579 and were of the unanimous opinion that the rates of duty on the items affected by S. 579 are bound in U.S. Schedule XX of the GATT and cannot unilaterally be changed. The provisions in Section 808 and S. 579 are virtually identical, and the comments of last year are as significant today as they were last year.

C. The Enactment Of Section 808 Would Invite Retaliation By U.S. Trading Partners

Section 808 would lower the duty rates for some silicone products while, as noted above, increasing rates for others. Even if it were assumed that such reductions offset any duty increases (which they do not, as set forth below), the United States is not entitled to unilaterally choose the form of compensation for a GATT violation. Therefore, U.S. trading partners could retaliate against the United States by imposing increased restraints on U.S. exports. The excerpt from the Department of Commerce letter to Senator Packwood set forth above acknowledges this. Such retaliatory actions would inflict hardships on innocent U.S. industries. The retaliatory actions might well result in lost profits for American industries and lost jobs for American workers. The danger of setting such a damaging cycle in motion should by itself lead to rejection of Section 808.

Not only is unilateral compensation not provided for in the GATT, such a concept would be imprudent for the United States to espouse. If our trading partners chose not to retaliate against the GATT violations resulting from Section 808, such legislation would still have the detrimental effect of signalling U.S. approval of the concept of unilateral amendment to GATT concessions and unilateral compensation. If the GATT permitted countries to undertake unilateral compensating changes to duty rates, a country could increase the duty rate on products subject to competition and decrease the duty rate on products which were not subject to competition, effectively increasing the level of protection. Such action would be contrary to the principles of the GATT. The United States should be cautious, as by enacting Section 808 and sanctioning a concept of unilateral compensation, the United States could well be facing analogous actions from its trading partners in the future, based upon the U.S. precedent. It is unlikely that the United States would countenance such action by our trading partners and should not do anything to encourage it.

D. Section 808 Is Not Revenue Neutral

Section 808 is not revenue neutral. The argument of revenue neutrality is based on the fact that various forms of silicone are now subject to differing duties ranging from duty free (for silicone rubber) to $.01 per lb. plus 7.7 percent ad valorem (for silicone resins). The conclusion of the "revenue neutrality" argument is that classifying all forms of silicone together and levying a duty rate of 3.7 percent ad valorem would not change the total U.S. customs duties collected on silicone products compared to the duties that would have been collected in the absence of the classification and duty rate changes, because such changes would decrease the duties on some imports, while increasing the duties on others. This argument is flawed, however, as the products which would have decreased duties are not imported in the same quantity as are the products which would be subject to increased duties, and in any event, it does not address the problems mentioned above regarding GATT violations and unilateral compensation.

Silicone products in TSUS items 429.95 and 474.62 are presently subject to a 3.7 percent ad valorem rate of duty; therefore, reclassification under TSUS 445.55 (with its corresponding 3.7 percent ad valorem rate of duty) as provided by Section 808 would have no effect on the duties imposed on those items.

On the other hand, reclassifying silicone products now under TSUS item 494.60 to proposed TSUS item 445.55 as provided by Section 808 would increase the duty on those products from 2.1 percent ad valorem to 3.7 percent ad valorem (an increase of 76 percent). Determining the dollar amount of this increase in duties on silicone products is difficult, as 494.60 is a "basket" tariff provision which encompasses more than just silicone products. Thus, the total number of 494.60 imports which are silicone products cannot be separately determined, and a revenue effect for silicone products would be unreliable and difficult at best to estimate, although it would certainly be an increase.

The best way to determine the net revenue effect of Section 808 is to offset the increase in customs duties for silicone rubbers currently classified under TSUS item 446.15 which would result from enactment of Section 808 causing the rate of duty on these rubbers to go from duty free to 3.7 percent ad valorem, by the decrease in customs duties which would result for silicone resins currently classified under TSUS item 445.56 when the rate of duty on these resins would go from 1 cent per pound plus 7.7 percent ad valorem to 3.7 percent ad valorem under Section 808. The following charts demonstrate on this basis that enactment of Section 808 would result in a substantial increase in U.S. customs duty revenue. The import volume and value figures are based on official 1986 import statistics, and the duty comparisons are based on 1987 duties with, and without, the enactment of Section 808.

CHART 1. DUTY INCREASE ON TSUS ITEM 446.15

| TSUS ITEM | DESCRIPTION | IMPORTS QUANTITY (lbs.) / DOLLAR VALUE | COMPARISON OF DUTIES: 0.0% (current) / 3.7% (under H.R. 3) |
|---|---|---|---|
| 446.15 | Synthetic rubber | | |
| 446.1533 | Silicone | 7,217,823 $14,165,529 | 0 / 524,124 |
| 446.1571 | Masterbatches containing carbon black | 2,016,543 / $ 1,203,569 | 0 / 44,532 |
| 446.1576 | Masterbatches NSPF | 4,254,533 / $ 3,983,521 | 0 / 147,390 |
| 446.1580 | Synthetic rubber | 344,247 / $ 1,593,393 | 0 / 58,956 |
| | TOTALS | 13,833,146 / $20,946,012 | 0 /$775,002* |

* The net increase in duties collected under TSUS item 446.15 if Section 808 were enacted would be $775,002.00.

CHART 2. DUTY DECREASE ON TSUS ITEM 445.5660

| TSUS ITEM | DESCRIPTION | IMPORTS QUANTITY (lbs.) / DOLLAR VALUE | COMPARISON OF DUTIES: $.01 per lb. + 7.7% (current) / 3.7% (under H.R. 3) |
|---|---|---|---|
| 445.5660 | Silicone resins | 1,992,462 / $4,957,145 | $401,625 / $ 183,414* |

* The net decrease in duties collected on silicone products under TSUS item 445.56 if Section 808 were enacted would be $218,211.00.

Subtracting the net decrease in item 445.5660 duties ($218,211.00) from the net increase in item 446.15 duties ($775,002.00) indicates that Section 808 would result in increasing 1987 duties by $556,791.00, assuming comparable levels and values of imports in 1987 as in 1986.

E. Section 808 Is In Conflict With The Proposed Conversion Of The TSUS To The Harmonized System

The October 1986 draft conversion of the TSUS to the Harmonized System format released by the Trade Policy Staff Committee of the Office of the U.S. Trade Representative ("USTR") classifies silicones under one Harmonized System heading which is separated into three subparts. Upon adoption of the proposed Harmonized System, silicone fluids, resins and rubbers would be classified under commodity code number 3910.00 with the proposed duties for the distinctly different silicone products indicated in the following chart:

| Heading | Article Description | Proposed Rates of Duty1/ Col. 1 | Col. 2 |
|---|---|---|---|
| 3910.00 | Silicones in primary forms: | | |
| 3910.00.10 | Elastomeric---------- | Free | 20.0% |
| | Other: | | |
| 3910.00.20 | Dimethylsiloxane fluid--- | 3.7% | 25.0% |
| 3910.00.50 | Other---------- | $.22/kg +7.7% | 33.5% |

1/ Percentages are applied ad valorem.

This conversion achieves the purpose of classifying silicones under one heading, while preserving the varying duty rates on the distinctly different forms of silicone.

When the USTR was evaluating the ITC draft conversion of the TSUS to the Harmonized System, two domestic companies (Dow Corning Corp. and General Electric) submitted comments urging the USTR not to adopt the ITC's recommended conversion for silicone products (which is the proposal set forth above), but instead to adopt a single classification with the same rate of duty for all silicone products (which would be the same result as enacting Section 808). These companies attempted to articulate arguments based on the chemical similarity of silicone products; their true motivation was one of self-interest and protectionism. They were not concerned with the manner in which silicone products are

classified, except as businesses which realize that a reclassification of silicones at a single rate of duty as they proposed would result in an increase in duties on those products, giving these companies a competitive advantage. The USTR wisely rejected those arguments and adopted the recommendation of the ITC.

Section 808 is an attempt by these same companies to institute the changes which they requested the USTR to make, but which were rejected. The House of Representatives should follow the sound reasoning of the ITC and the USTR with respect to the Harmonized System and reject Section 808.

F. Enactment Of Section 808 Would Ignore Distinct Chemical And Physical Differences In The Various Forms of Silicone

There are significant chemical differences in the various forms of silicone which are classified into three separate categories: (1) fluids and emulsions; (2) elastomers; and (3) resins. These are generally accepted classifications in the trade. All marketing reports and industrial analyses of the silicone business that have appeared in CHEMICAL MARKETING REPORTER, CHEMICAL WEEK and CHEMICAL AND ENGINEERING NEWS have divided silicones into these three segments.

The end-uses of silicone are dictated by the chemical form. Silicone elastomers (rubbers), because of their light weight, low and high temperature resistance and electrical properties are used for seals and electrical insulation of aircraft, ships, and missiles. Other primary uses of silicone rubbers are in the automotive, electronic, electrical appliance, wire and cable, and paramedical industries.

Silicone fluids are used primarily in waxes, polishes and urethene foam. These fluids are also used widely in the water and stain proofing of fabrics, paper, and masonry. Another popular use of silicone fluids is in the cosmetics field. Silicone fluids are often an ingredient in hand creams and lotions, hair sprays, pre-shave lotions, aftershave lotions, shaving creams, suntan lotions, lipsticks, toothpastes and deodorants.

Silicone resins, because of their heat resistance, have been employed in various electrical devices. They are also widely used in paints, water repellants, and grease coatings.

As the above discussion indicates, there are vast differences in the chemistry and application of the distinct forms of silicone. The proponents of Section 808 have failed to articulate a reason to disrupt this long established practice of separate classification.

H.R. 2442

H.R. 2442 would avoid many of the pitfalls of Section 808:

A. H.R. 2442 Would Maintain The Status Quo

H.R. 2442 would not change U.S. customs duties. U.S. industry that presently enjoys a competitive edge (because of the duties, transportation costs, etc., associated with imports) would maintain the same relative position. Simultaneously, no additional burdens would be imposed upon importers of silicone products and those U.S. companies that use such imports for their production.

B. H.R. 2442 Is Consistent With U.S. Obligations

H.R. 2442 is consistent with the GATT, as it entails no U.S. customs duty increases. It does not provide trading partners with an excuse to impose retaliatory action against the United States. The United States is bound to a duty-free treatment effective in 1987 for silicone rubber currently classified under TSUS item 446.15. GATT provides the mechanism to alter duty rates. If the United States were interested in changing the silicone duty rates, it should employ the established GATT mechanism.

C. H.R. 2442 Is Revenue Neutral

Proponents of Section 808 have portrayed the bill as revenue neutral. In fact, H.R. 2442 and the Senate companion bill, S. 205, are the only revenue neutral bills, not Section 808.

D. H.R. 2442 Is Consistent With The Proposed Harmonized System

The United States, as one of thirty-five parties, has been working diligently to establish a Harmonized System for more than a decade. Congress, and indeed the Subcommittee on Trade, is now considering such a proposal. H.R. 2442's treatment of silicone products is consistent with the proposal being considered. Enactment of H.R. 2442 and the Harmonized System would effect the decisions of the trade experts who have been working on this matter for more than a decade.

E. H.R. 2442 Recognizes The Distinct Chemical And Physical Differences In The Various Forms Of Silicone

It is imperative to recognize the distinct chemical and physical differences in the various forms of silicone, as these differences dictate the end-use product. Silicone rubbers have different end-uses as contrasted with silicone fluids, which in turn have different end-uses than silicone resins. There has been a long-established practice of separate classification. There is no practical reason to disrupt this basic classification. The proponents of Section 808 have not successfully articulated reasons for changing the classification.

CONCLUSION

As discussed above, enactment of Section 808 would increase duties in violation of U.S. obligations under the GATT, inviting retaliation which would make some U.S. industry(ies) pay for an amendment urged by two (2) U.S. companies. Further, it would set a dangerous example of unilateral changes to duty rates and unilateral compensation. Enactment of Section 808 would unfairly put importers and U.S. manufacturers using imported silicone products at a competitive disadvantage. Section 808 also ignores significant differences in distinct silicone products and disrupts traditional classification practices.

Conversely, enactment of H.R. 2442 would maintain the same competitive position between manufacturers using domestically produced silicone and manufacturers using imported silicone, permit the United States to remain consistent with its GATT obligations, and not disrupt U.S. relations with trading partners, and permit the United States to remain consistent with its GATT obligations.

For the foregoing reasons, we urge the enactment of H.R. 2442 and the rejection of Section 808 of H.R. 3.

Respectfully submitted,

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## H.R. 2444

*To suspend temporarily the duty on certain luggage frames of aluminum until January 1, 1990*

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June 11, 1987

FILE REFERENCE NO.

1168

Robert J. Leonard, Esq.
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Committee on Ways and Means
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VIA FEDERAL EXPRESS

RE: Comments In Support Of H.R. 2444, To Suspend Temporarily The Duty On Certain Luggage Frames Of Aluminum Until January 1, 1990

Dear Mr. Leonard:

We wish to submit comments on behalf of Skyway Luggage Company, in support of H.R. 2444 which would suspend temporarily the duty on certain luggage frames of aluminum until January 1, 1990. Skyway Luggage Company, located in Seattle, Washington, is primarily a U.S. manufacturer of luggage and related products, which are principally produced at its facility in Seattle, Washington. Skyway also imports aluminum luggage frames which are used in the manufacture of these products. Skyway strongly supports passage of H.R. 2444 as it would significantly enhance Skyway's ability to continue its domestic production of luggage at a time when many U.S. companies have ceased producing luggage.

Background on Skyway Luggage

Skyway Luggage Company is a 77-year-old U.S. manufacturer of luggage and related products whose principal place of business is in Seattle, Washington. The company has always been and continues to be 100% U.S.-owned. The company operates a factory in Seattle, and in Philadelphia, Pennsylvania, as well as a factory in El Paso, Texas, with an Item 807.00 twin plant in Juarez, Mexico.

Skyway Luggage is one of a very few surviving U.S. domestic producers of luggage. While exact figures are not immediately available, it is Skyway's estimate that the company is in the top two or three luggage manufacturers in terms of U.S. production, both in volume and in number of employees.

In an industry that has seen literally dozens of factories and thousands of jobs disappear in the last decade, Skyway's ability to maintain its domestic production base is a result of several factors. One of the most important of these factors is Skyway's ability to procure raw materials at the best possible price.

Current Treatment of Aluminum Luggage Frames

The aluminum luggage frames currently imported by Skyway are classified by U.S. Customs under Item 657.40 as articles of aluminum, not specially provided for, and receive duty-free treatment under the U.S. Generalized System of Preferences (GSP), which gives preferential treatment to certain merchandise from developing nations.

It should be noted that Item 657.40 is a "basket" provision, and includes a broad variety of aluminum articles. Specifically, it includes all articles not specifically provided for by another provision in the tariff schedules. Aluminum luggage frames are but one of many items covered by the provision.

Although Item 657.40 with respect to Taiwan is currently eligible for GSP (duty-free) treatment, Item 657.40 with respect to Taiwan will lose GSP status effective July 1, 1987, as a result of certain changes promulgated by the U.S. Trade Representative. Thus, all Item 657.40 merchandise from Taiwan which is entered on or after July 1, 1987, will be assessed at the regular Column 1 duty rate of 5.7% ad valorem.

Passage of H.R. 2444 Would Encourage the U.S. Luggage Industry.

Passage of H.R. 2444 would significantly enhance Skyway's ability to continue its domestic production. As noted above, although Skyway imports aluminum luggage frames from Taiwan, the company is primarily a U.S. manufacturer. The other components utilized in the luggage products are made primarily in the United States. Skyway's ability to remain competitive in the marketplace and to employ American labor has been in part attributable to its ability to procure raw materials at the best possible prices. Allowing Skyway to continue to import the aluminum luggage frames at the lowest possible cost (i.e., duty-free treatment) permits Skyway to continue to market its products at the lowest cost and thus maximize sales. Maximizing sales means use of more domestic materials and ensures the fullest U.S. employment possible. Higher duty rates on aluminum luggage frames could potentially harm the producers of other U.S. components (textiles, locks, plywood, etc.), because if Skyway's higher aluminum luggage frame costs require it to raise end-product prices, it could reduce the number of suitcases sold and thus the number of U.S. components purchased by Skyway. Furthermore, it might potentially reduce Skyway's employment force at its factories. Passage of H.R. 2444, therefore, would significantly enhance Skyway's ability to continue domestic production.

U.S. Producers Have Been Unwilling to Manufacture Aluminum Luggage Frames for Skyway.

Based upon diligent inquiries, it is Skyway's conclusion that the type of aluminum luggage frames that Skyway imports from Taiwan are simply unavailable in the United States. U.S. producers to whom these aluminum frames were shown have declined to produce them for Skyway because of an unwillingness to make the capital investment required and the difficulty of meeting environmental regulations.

For example, in April of 1987, a U.S. domestic manufacturer of luggage frames met with Skyway to discuss future orders of luggage frames. This manufacturer has been an aluminum frame manufacturer of long standing. Its frames were extruded and surface coated. Skyway purchased some frame material from this company in straight lengths and bent the material at the Skyway facility in Seattle. Unfortunately, the result was a product which showed "crazing" marks where it was bent, was inconsistent in its bending, and suffered unacceptable variances from standards in hardness.

This company subsequently asked to be given a chance to give a quotation on the frames Skyway is presently importing. This company has a track record of being the most capable of the aluminum extruders in the United States. Skyway agreed to this request and made a full disclosure of its product requirements.

After hearing the requirements, this company informed Skyway that it was unable to supply the same product at a competitive price. A number of reasons were given for declining the offer. To begin with, production of the material would require a large capital outlay. Moreover, significant engineering expenses would have to be incurred to develop and tool the bending equipment. Apparently, the existing surface-treating equipment at this company was unable to handle the frames in their bent state. In addition, further expenditures would have to be incurred by this manufacturer for ensuring proper environmental safeguards. Skyway indicated a desire for the surface treatment to be applied after the bending operation, because it resulted in a better finished appearance than if the frame were surface-treated prior to bending.

Based on this actual situation and other diligent inquiries, Skyway finds that it is <u>impossible</u> to duplicate the imported product in the U.S. Moreover, additional domestic producers have declined to produce the frames.

<u>The Benefit From the Passage of H.R. 2444 Outweighs the Very Small Loss of Revenue.</u>

As stated, it is Skyway's position that passage of H.R. 2444 would significantly enhance its ability to continue its domestic production. This factor outweighs any loss of revenue to the United States as a result of the passage of H.R. 2444. Any loss of revenue due to duty-free treatment would be insignificant. First, there are very few U.S. domestic luggage manufacturers using any aluminum frames. Further, none of them use the advanced technology that is used with the aluminum frames made for Skyway. Based upon available information, Skyway is the only known importer of aluminum luggage frames from abroad.

The calendar year 1986 statistics for Item 657.40 with respect to Taiwan amounted to $36,656,488, which represents 20.5% of the world total imports under Item 657.40. Based upon Skyway's annual imports of aluminum luggage frames from Taiwan, the amount of imports that would be affected by passage of H.R. 2444 would be less than 1% of the total imports from Taiwan under Item 657.40. Therefore, the loss of revenue to the United States from duties on imported aluminum luggage frames as a result of the passage of H.R. 2444 would be insignificant. Further, it would be insignificant in light of the potential harm to the U.S. luggage industry if H.R. 2444 is defeated.

Summary

Skyway Luggage Company strongly supports passage of H.R. 2444. Passage of this bill would go far to protect the domestic luggage industry and to protect employment within that industry. Failure to pass this bill will not benefit any U.S. industry. On the contrary, it will have a negative immpact on U.S. consumers, U.S. manufacturers, and U.S. labor. At a time when much of the domestic luggage industry has been unable to compete in the international market, Skyway has been able to do so successfully. However, its continued competitiveness depends on its ability to procure raw materials at the best possible prices. Passage of H.R. 2444 is one step to helping an American industry, to maintaining American jobs, and to sustaining American trade.

Thank you for your consideration of these comments.

Very truly yours,

LAW OFFICES OF
GEORGE R. TUTTLE,
A Professional Corporation

By: Stephen S. Spraitzar
Stephen S. Spraitzar

SSS/jem:sky-3
cc: Mr. Henry L. Kotkins, Jr.
Skyway Luggage Company

H.R. 2453

*To suspend the duty on triallate pesticides until January 1, 1991*

STATEMENT OF
MONSANTO COMPANY
H.R. 2453
SUBCOMMITTEE ON TRADE, COMMITTEE ON WAYS AND MEANS

The Monsanto Company supports H.R. 2453 which provides for a temporary suspension of duty on triallate, a commodity, technical herbicide product. Triallate is the common name for the chemical S-(2,3,3'-trichlorallyl) disporopyl thiocarbamate. It is the active technical ingredient of a commodity (non-patented) selective, pre-emergent herbicide used to control wild oats in small grain crops such as wheat and barley.

Until May of 1986, Monsanto was the sole, U. S. producer of triallate. At that time, because of a decline in the North American market for the product and other commercial reasons, production of triallate was consolidated at Monsanto's facilities in Belgium. Monsanto plans to continue to serve the North American market for triallate herbicide by importing technical triallate from the facility in Belgium and formulating it in the U. S. into finished product suitable for use by farmers.

There has been no U. S. manufacturer of this product since Monsanto ceased its production in the U. S. Because of the decline in the North American market and the very difficult manufacturing process for this product, it is very unlikely that anyone will begin production in the foreseeable future. Moreover, there are no herbicide products manufactured in the United States which are directly competitive with triallate; that is, are selective, pre-emergent wild oat herbicides for small grains.

The duty rate for triallate from Belgium is 3.7% ad valorem. Triallate is classified in the TSUS under item number 425.3620, which covers a range of pesticides. Exacting a duty on triallate will make American agriculture needlessly pay more for the weed control benefits provided by this product. Because there is no domestic source of triallate, Monsanto supports H.R. 2453 which will suspend the duty on triallate until January 1, 1991.

June 1987

H.R. 2457

*To extend until January 1, 1993, the suspension on duty on tetra amino biphenyl*

No statements submitted.

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H.R. 2459

*For the relief of the City of Albany, NY*

No statements submitted.

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H.R. 2483

*To provide for 3 years duty-free treatment of certain power-driven weaving machines and parts thereof*

No statements submitted.



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